IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION. JOHANNESBURG

CASE NO: 2018/38401

ln the matter between:

(Applicant / Plaintiff)

Firstrand Bank Ltd

and

Ephraim Mbuso Dlamini

(Respondent / Defendant)

(Applicant / Plaintiff Attorney) (Respondent / Defendant Attorney)

(Advocate) (Advocate)

DOCUMENT PRESENTED FOR FILING:

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2. COURT ORDER DATED:

Bundle prepared at sajustice.caselines.com

SET DOWN FOR HEARING ON:

(Insert remarks below)

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

APPEAL CASE NUMBER:

COURT *A QUO* CASE NUMBER: 34779/2018

In the matter between: -

PEG HR SOLUTIONS (PTY) LIMITED — Appellant (Respondent in the Court *a quo*)

and

FIRSTRAND BANK LIMITED — Respondent (Applicant in the Court *a quo*)

CASE NUMBER: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI — Appellant (Respondent in the Court *a quo*)

and

FIRSTRAND BANK LIMITED — Respondent (Applicant in the Court *a quo*)

NOTICE OF APPEAL IN TERMS OF RULE 49(3)

BE PLEASED TO TAKE NOTICE that the appellants (the respondents in the Court

a quo) having been granted leave to appeal on 2 July 2020 by the Honourable Mr Justice Matojane hereby note an appeal to the Full Bench of the Gauteng Local Division of the High Court of South Africa, against the whole of the judgment and orders handed down by his Lordship on 25 October 2019.

TAKE NOTICE FURTHER that the findings of fact and/or rulings of law appealed against and the grounds on which the appeal is founded are the following: -

1. The learned Judge erred in holding that the defence of compromise had not been stated in the appellant's (*"PEG"*) affidavit: -

    1.1. The defence was pertinently raised in PEG's further affidavit;

    1.2. The further affidavits were allowed by the Court and by agreement between the parties at the hearing of the matter;

    1.3. The defence of compromise was based upon common cause facts.

2. The learned Judge erred further in holding that there was no *animus contrahendi* between the parties in relation to the defence of compromise when there was an express, alternatively a tacit agreement to sell all of the properties in Umhlanga.

3. The learned Judge ignored that the parties acted in accordance with the contract which was concluded either expressly or tacitly by selling three of the four properties in Umhlanga

4. The learned Judge erred further in holding that the contract of compromise was not demonstrated by the conduct of the parties in that: -

4.1. the bank demanded payment;

4.2. PEG never complained of a breach of the contract.

5. The learned Judge should have found that the sale of three of the four properties was conclusive.

6. The learned Judge attached too much weight to the offer to sell that was made by PEG during the course of litigation and the learned Judge misapplied himself, with respect, to this offer that was purely made to put an end to the litigation.

7. The learned Judge should have exercised his discretion and dismissed the application given that it was a malicious method of enforcing the repayment of the loan in light of the fact that three of the four properties were already sold. There was no reason for the application.

8 The learned Judge erred further in finding that there was not sufficient security given in terms of section 345(1)(a) of the Companies Act, 61 of 1973 (*"the old Act"*).

9. The learned Judge failed to attach any weight to the fact that Dlamini, the other respondent in the proceedings, had a continuing personal suretyship in favour of the bank in the sum of R30 million; the additional security comprised of: -

9.1. a covering mortgage bond in respect of the Umhlanga Rocks properties in the amount of R66 million;

9.2. a covering mortgage bond over the River Club properties in the amount of R20 million; and

9.3. a covering mortgage bond over the Buccleuch property in the amount of R5 million.

10. The learned Judge ignored that there was sufficient security to the reasonable satisfaction of the bank for the payment of the sum claimed by the bank.

11. The learned Judge should have exercised his discretion and refused the application given that PEG had already made payments to the bank of some

R94 million.

12. The learned Judge should have found that there was a bona fide defence to the winding up application and he should have refused the application.

DATED at JOHANNESBURG on this 20th day of JULY 2020.

NOZUKO NXUSANI INC
APPELLANT'S ATTORNEYS
69 JAN SMUTS AVENUE
(OPPOSITE WESTCLIFF HOTEL)
WESTCLIFF
JOHANNESBURG
TEL: (011) 591-8245
FAX: (011) 646-6985
E: given@nozukonxusaniinc.co.za
Ref: Mr TG Chavalala/MAT7469

TO: **THE APPEAL REGISTRAR OF THE ABOVE HONOURABLE COURT**
JOHANNESBURG

AND

TO **ENS AFRICA ATTORNEYS**
RESPONDENTS' ATTORNEYS
THE MARC, TOWER 1
129 RIVONIA ROAD
SANDTON
TEL: (011) 269-7600
Email: jpritipaul@ensafrica.com
Ref: G Oertel/J Pritipaul/0401532

Received copy hereof this day of JULY 2020.

for RESPONDENTS' ATTORNEYS
electronic service

Given Chavalala

From: Given Chavalala <given@nozukonxusaniinc.co.za>
Sent: 20 July 2020 10:18 AM
To: 'Jaslin Pritipaul'
Subject: PEG SOLUTIONS (PTY) LTD AND EPHRAIM MBUSO DLAMINI//FIRSTRAND BANK
Attachments: Notice of Appeal.pdf

Dear Jaslin

Kindly find herewith notice of appeal for service.

Regards

Given Chavalala

Tel: +2711 975 5666 **Fax: +2711 975 0707**
Physical Address:
40 Kerk Street, The Whitehouse Building
Wing 8, Ground Floor
Kempton Park, Gauteng

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Given Chavalala

From: Jaslin Pritipaul <jpritipaul@ensafrica.com>
Sent: 20 July 2020 02:34 PM
To: Given Chavalala
Cc: Kathryn Kotze
Subject: RE: PEG SOLUTIONS (PTY) LTD AND EPHRAIM MBUSO DLAMINI//FIRSTRAND BANK

Dear Given

We acknowledge receipt of same

Kind regards

Jaslin Pritipaul
Associate
Insolvency, Restructuring and Business Rescue

+27 11 269 7600
+27 82 560 5834
jpritipaul@ENSafrica.com
ENSafrica locations

ENSafrica.com

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level 1 BBBEE rating

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Tel: +2711 975 5666 Fax: +2711 975 0707
Physical Address:
40 Kerk Street, The Whitehouse Building
Wing 8, Ground Floor
Kempton Park, Gauteng

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Given Chavalala

From: Given Chavalala <given@nozukonxusaniinc.co.za>
Sent: 23 July 2020 09:58 AM
To: 'JHBappeals@judiciary.org.za'
Subject: PEG HR SOLUTIONS (PTY) LTD//FIRSTRAND BANK LTD & EPHRAIM MBUSO DLAMINI//FIRSTRAND BANK LTD
Attachments: Notice of Appeal and service email.pdf

Good day

Kindly find herewith Notice of Appeal for filing.

Regards

Given Chavalala

NOZUKO
ATTORNEYS & CONVEYANCERS

Tel: +2711 975 5666 Fax: +2711 975 0707
Physical Address:
40 Kerk Street, The Whitehouse Building
Wing 8, Ground Floor
Kempton Park, Gauteng

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IN THE HIGH COURT OF SOUTH AFRICA

GOUTENG VAN DIE SUIDELIKE AFRIKA
HOOGGEREGSHOF JOHANNESBURG
2013 -01- 24
OPPOSED MOTION
REGISTRAR OF THE HIGH COURT GAUTENG
HIGH COURT JOHANNESBURG

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 38401/18

FIRSTRAND BANK LIMITED

Applicant

(Registration Number: 1929/001225/06)

and

EPHRAIM MBUSO DLAMINI

Respondent

(Identity Number: 5610185771087)

FILING SHEET

BE PLEASED TO TAKE NOTICE THAT the Applicant hereby presents the following documents for service and filing:

1. Practice Note;
2. Heads of Argument;
3. List of Authorities; and
4. Chronology.

DATED at **JOHANNESBURG** this 24th day of January 2019.

EDWARD NATHAN SONNENBERGS INC

Per:

Attorneys for the Applicant
The MARC
Tower 1
129 Rivonia Road
Sandton
2196
JOHANNESBURG
Tel number (011) 269 7600
Fax number (010) 569 6176
Email:goertel@ensafrica.com/
jpritipaul@ensafrica.com
(Ref: G Oertel/J Pritipaul/0401532)

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

AND TO: **NOZUKO NXUSANI INC**
Attorneys for the Respondent
69 Jan Smuts Avenue
Westcliff
Gauteng
Tel: 011 403 0085
Fax: 01 403 0082
Email: given@nozukonxusaniinc.co.za
Ref: (Mr Chavalala)

Nozuko Nxusani Inc.
WESTCLIFF
Date: 24/01/19 Time: 09:27
Signature:.....
"Received without Prejudice"

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No.: 38401 / 2018

In the matter between:

FIRSTRAND BANK LIMITED Applicant

and

EPHRAIM MBUSO DLAMINI Respondent

CERTIFIED THAT THIS IS A TRUE COPY OF THE ORIGINAL
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
PRIVATE BAG X8 JOHANNESBURG 2000
2019 -01- 24
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG PRETORIA

APPLICANT'S PRACTICE NOTE

1. NUMBER ON THE ROLL: Not known

2. DATE OF HEARING: Not known

3. APPLICANT'S COUNSEL: A. Laher

082 290 7377

(011) 263 8900

a.laher@law.co.za

01-3

4. RESPONDENT'S COUNSEL: Not known

5. NATURE OF APPLICATION AND RELIEF SOUGHT:

The applicant seeks relief against the respondent in terms of a deed of suretyship executed for the debts of PEG HR Solutions (Pty) Ltd ("PEG").

6. NOTE TO THE LEARNED JUDGE:

The applicant has also set down an application against PEG for its final winding-up under case number 34779 / 2018. Both applications ought to be heard together. – they share the same factual matrices and are related. A favourable decision (for the applicant) in the winding-up will lead to an order against the respondent herein.

7. MAIN ISSUES TO BE DETERMINED:

7.1. Does the applicant establish its case against the respondent?

7.1.1. The applicant will submit that it does.

7.1.2. The applicant will rely upon: *Di Giulio v First National Bank of South Africa Limited* 2002 (6) SA 281 (C), par. [26]

01-4

7.2. Is the respondent able to rely upon excussion?

7.2.1. The applicant will submit that it cannot.

7.2.2. The applicant will rely upon: *Stocker v The Workforce Group (Pty) Ltd* 2010 JDR 1390 (GSJ), par. [7]

7.3. Are there any, material or otherwise, disputes of fact?

7.3.1. The applicant will submit that there are not, and that it is entitled to the relief sought.

7.3.2. The applicant will rely upon: *Firstrand Bank Limited v Hazan* 2016 JDR 0331 (GJ).

8. ESTIMATED PROBABLE DURATION: 1.5 - 2 Hours

9. URGENCY: None

10. NEED TO READ THE PAPERS: The papers ought to be read

A. LAHER

Applicant's Counsel

Chambers

Sandton

22 January 2019

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No.: 38401/2018

In the matter between:

FIRSTRAND BANK LIMITED Applicant

and

EPHRAIM MBUSO DLAMINI Respondent

REGISTRAR OF THE HIGH COURT GAUTENG
SUCCESSOR TO THE SOUTH GAUTENG
PRIVATE BAG X67
JOHANNESBURG 2000
2019 -01- 24
OPPOSED MOTION

APPLICANT'S HEADS OF ARGUMENT

INTRODUCTION

1. The applicant ("Firstrand") seeks payment from the respondent ("Mr Dlamini") in terms of a deed of suretyship (including the addendum thereto) ("the Suretyship") for the indebtedness of PEG HR Solutions (Pty) Ltd ("PEG") in an amount of R27 million ("the indebtedness"). Mr Dlamini is also the sole director of PEG. As surety, his indebtedness is limited to R30 million.[1]

---

[1] Bundle 1, Annexure "FA3" to the Founding Affidavit ("F.A."), pp. 54 – 62

01-7

2. The conclusion, as well as the terms, of the Suretyship are not in issue.[2] Mr Dlamini, however, disputes the computation of the indebtedness – he does not dispute that PEG is in fact indebted to Firstrand.[3] The dispute, it is submitted, is wholly without merit and is unsustainable.

3. Firstrand has simultaneously sought the winding-up of PEG, due to its inability to pay its debts (and in addition, it is submitted, its commercial insolvency) in this court under case number 34779 / 2018. Both applications ought to be heard together – they share the same factual matrices and the defences raised by Mr Dlamini and PEG, respectively, are identical.

4. It is submitted that Firstrand's entitlement to judgment in this application ought to flow naturally if it is successful in obtaining a winding-up order against PEG. Even if a winding-up order is not granted, an order in this application ought to be granted as a result of PEG's acknowledgement of its indebtedness to Firstrand.[4]

COMMON CAUSE FACTS

5. It is common cause that:

5.1. Firstrand and PEG concluded a Loan Agreement wherein Firstrand approved a loan facility in favour of PEG for R64.7 million ("the Loan Agreement");[5]

---

2 Bundle 1, F.A., par. 35 – 39, pp. 27 – 29; read with Bundle 3, Answering Affidavit ("A.A."), par. 49, p. 292

3 Bundle 3, A.A., par. 30 – 31, p. 288

4 *Ibid*

5 Bundle 1, F.A., par. 9 – 11, pp. 6 – 11; read with Bundle 3, par. 37 – 38, pp. 289 - 290

5.2. Over the course of six years several addenda to the Loan Agreement were concluded;[6]

5.3. PEG signed an acknowledgement of debt, an addendum thereto, and one Extension Letter in favour of the applicant;[7] and

5.4. The purpose of advancing the Loan Agreement and addenda was for, *inter alia*, the payment of rates and taxes.[8]

6. The concessions made by Mr Dlamini significantly narrow the issues for determination. As a result, the following consequences flow therefrom:[9]

6.1. Loan amounts were advanced to PEG;

6.2. PEG was indebted to Firstrand from time to time;

6.3. Firstrand advanced funds to PEG for, *inter alia*, the payment of rates and taxes; and

6.4. PEG's would pay the fees and interest set out in the various agreements.

---

6 Bundle 1, F.A., par. 18 – 28, pp. 13 – 24; read with Bundle 3, A.A., par. 40 – 41, p. 290

7 *Ibid*

8 Bundle 3, A.A., par. 6.6, pp. 401 – 402; and par. 16.7, p. 283

9 *Ibid*, par. 6.1 – 6.8, pp. 400 - 403

MR DLAMINI'S CASE

7. Mr Dlamini's purported defence, although identical to PEG's defence in the winding-up application - as it must - a purported defence *in rem*,[10] must be viewed against the following backdrop:[11]

   7.1. His answering affidavit was filed subsequent to PEG receiving Firstrand's response to its request for documents in terms Rule 35(12) and (14);

   7.2. He acknowledges that PEG were invited to supplement its answering affidavit, and did not accede thereto; and

   7.3. Alleges, without any substantiation, that the documents provided by Firstrand to PEG do not assist Firstrand.

8. Without taking cognisance of the substantiation of Firstrand's entitlement to judgment, in both applications and based on its certificates of balance,[12] and despite it constituting a complete answer to Mr Dlamini's uncertainty in quantifying PEG's indebtedness, he persists in his stance that the indebtedness claimed is unsubstantiated and that Firstrand is not entitled to judgment either against him or PEG.

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10 *Stocker v The Workforce Group (Pty) Ltd* 2010 JDR 1390 (GSJ), par. [7] (Full Bench)
11 Bundle 3, A.A., par. 6 – 8, pp. 276 - 277
12 Bundle 3, Annexure "FA46" to the F.A., p. 270

9. Mr Dlamini's defence to this application is twofold (both of which will be discussed in-turn):

   9.1. Firstly, he alleges that Firstrand has sufficient security for its claim against him and ought to realise it prior to proceeding against him as surety;[13] and

   9.2. Secondly, he alleges a dispute/s of facts.[14]

Excussion

10. Mr Dlamini has expressly renounced, in addition to other benefits, the benefit of excussion.[15]

11. In *Stocker*,[16] a decision by the Full Bench of this division, Willis J (as he then was) stated thus: (emphasis added)

> *[7] It is trite that sureties are promissores subsidiarii, that their obligations are accessory to that of the principal debtor. This entails, inter alia, that a surety has the same defences in rem as the principal debtor has. In plain English, the Latin in this paragraph may be summarized as meaning that sureties have the same substantive defences as are available to the principal debtor, no more and no less. Apart from the beneficium ordinis seu excussionis (the benefit of excussion), the beneficium divisionis*

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13 *Ibid*, par. 13, pp. 279 - 280
14 Bundle 3, A.A., par. 6, p. 276
15 Bundle 1, Annexure "FA3" to the F.A., clause 12, p. 55
16 *Stocker v The Workforce Group (Pty) Ltd* 2010 JDR 1390 (GSJ), par. [7]

(the benefit of division) and the beneficium cedendarum actionum (the benefit of cession of actions), none of which beneficia are relevant to this case, a surety has the same rights as the principal debtor. Put conversely, a surety cannot succeed against a creditor in circumstances where the principal debtor would not be able to do so. As the principal debtor in this case has admitted the amount owing and its liability to pay the same, it is not open to the sureties to dispute these facts with the creditor. To compound the appellants' difficulties, they have both agreed that "acknowledgements of indebtedness" by the principal debtor shall be binding on them. Accordingly, there is no merit in this ground of appeal. The surety's remedy, in such a situation, is to claim, by way of recourse, from the principal debtor."

12. Mr Dlamini has also warranted being bound by *"all admissions and acknowledgments of indebtedness"* made by PEG.[17] In the circumstances, Mr Dlamini's recourse (after discharging his indebtedness to Firstrand) is to seek recourse against PEG by lodging a claim in its estate during its winding-up.

13. In *Wadolf Investments*,[18] this court restated the position of a surety's recourse in winding-up proceedings: (emphasis added)

"The loci classici of the position of a surety as a contingent creditor of a company are Moti and Co v Cassim's Trustee 1924 AD 720 at 728 and Rossouw and Rossouw v Hodgson and Others 1925 AD 97. In the latter case Innes CJ said this at 102 - 3:

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17 *Supra*, footnote 15, clause 5, p. 54. See also, Bundle 2, Annexures "FA16" and "FA17", being the acknowledgment of debt, and the addendum thereto, respectively at pp. 148 – 169 and 170 – 175 respectively

18 *Wilde and Another v Wadolf Investments (Pty) Ltd and Others* 2005 (1) SA 354 (W), par. [2]

'That at once raises the question whether the cause of the claim which a surety who has paid or been excussed has against the principal debtor is to be found in the suretyship undertaking or in the payment. An examination of the basis of the claim indicates the original suretyship as the true cause... . The object was not to interfere with the common law basis of a surety's rights, but to make it clear that voidable and undue preferences in favour of sureties might be set aside equally with those made in favour of ordinary creditors. It comes then to this: A surety, who has not paid or been excussed becomes, on the insolvency of the principal debtor, a conditional creditor, and may prove his claim as such. After payment or excussion his claim accrues unconditionally and may be proved on that basis. In neither case is the claim due before sequestration; but in both cases the cause arises previously, namely when the suretyship was entered into.' "

Dispute/s of fact

14. Mr Dlamini alleges a dispute of fact ostensibly on the basis of the computation of the indebtedness.[19] This stance, as demonstrated above, is untenable in the face of admissions of indebtedness (including proof thereof) as well as an acknowledgment of indebtedness.

15. In *Hazan*, [20]Opperman AJ (as she then was) in dealing with an allegation of a dispute of facts when, *inter alia*, enforcing a suretyship, restated the position thus: (emphasis added)

[32] In Wightman t/a JW Construction v Headfour (Pty) Ltd, 2008 (3) SA 371 (SCA) At para [13], Heher JA held as follows:

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19 Bundle 3, A.A., par. 6, pp. 276 - 277

20 *Firstrand Bank Limited v Hazan* 2016 JDR 0331 (GJ), par. [32]

"[13] A real, genuine and bona fide dispute of fact can exist only where the court is satisfied that the party who purports to raise the dispute has in his affidavit seriously and unambiguously addressed the fact said to be disputed. There will of course be instances where a bare denial meets the requirement because there is no other way open to the disputing party and nothing more can therefore be expected of him. But even that may not be sufficient if the fact averred lies purely within the knowledge of the averring party and no basis is laid for disputing the veracity or accuracy of the averment. When the facts averred are such that the disputing party must necessarily possess knowledge of them and be able to provide an answer (or countervailing evidence) if they be not true or accurate but, instead of doing so, rests his case on a bare or ambiguous denial the court will generally have difficulty in finding that the test is satisfied. I say 'generally' because factual averments seldom stand apart from a broader matrix of circumstances all of which needs to be borne in mind when arriving at a decision. A litigant may not necessarily recognise or understand the nuances of a bare or general denial as against a real attempt to grapple with all relevant factual allegations made by the other party. But when he signs the answering affidavit, he commits himself to its contents, inadequate as they may be, and will only in exceptional circumstances be permitted to disavow them. There is thus a serious duty imposed upon a legal adviser who settles an answering affidavit to ascertain and engage with facts which his client disputes and to reflect such disputes fully and accurately in the answering affidavit. If that does not happen it should come as no surprise that the court takes a robust view of the matter"."

FIRSTRAND'S CASE

16. The Suretyship complies with the statutory formalities.[21] In addition, Firstrand has established the following:[22]

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21 *General Law Amendment Act*, 50 of 1956

22 *Amler's Precedents of Pleadings, Ninth Edition* (2018), p. 350

16.1. A valid contract of suretyship (this is not in dispute);[23];

16.2. The *causa debiti* relied upon is one in respect of which Mr Dlamini undertook liability;[24] (this, too, is not in dispute)[25] and

16.3. PEG's indebtedness to it.[26]

CONCLUDING SUBMISSIONS

17. Mr Dlamini is unable to cast any doubt on PEG's indebtedness to Firstrand in light of the plethora of admissions made by him (and PEG in the winding-up application).

18. Mr Dlamini is unable to rely upon any defence *in personam* by seeking to invoke a benefit (i.e. excussion) which he has expressly renounced. All of his alleged defences are, at best for him, dilatory and are unsubstantiated. They consist of bald allegations which cannot create any *bona fide*, or genuine, dispute of facts.

19. PEG's indebtedness has not been, and cannot be, disputed. No evidence to challenge Firstrand's entitlement to judgment has been produced. The glaring inference to be drawn is that: no such evidence exists.

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23 *Di Giulio v First National Bank of South Africa Limited* 2002 (6) SA 281 (C), par. [26] (a decision by the Full Court)

24 *Dowson & Dobson Industrial Limited v Van der Werf and Others* 1981 (4) SA 417 (C), at 431C -- E

25 Bundle 3, A.A., par. 13, pp. 279 – 280; and par. 30, p. 288

26 *Cape Produce Co. (Port Elizabeth) (Pty) Ltd v dal Maso and Another NNO* 2002 (3) SA 752 (SCA), par. [6] – [7]

A LAHER

Applicant's Counsel

Chambers

Sandton

22 January 2019

01-16

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No.: 38401/2018

In the matter between:

FIRSTRAND BANK LIMITED Applicant

and

EPHRAIM MBUSO DLAMINI Respondent

GRIFFIER VAN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
PRIVAATSAK / PRIVATE BAG
JOHANNESBURG
2018 -01- 24
OFFICER

APPLICANT'S LIST OF AUTHORITIES

ITEM	DESCRIPTION
1.	*General Law Amendment Act*, 50 of 1956
2.	*Dowson & Dobson Industrial Limited v Van der Werf and Others* 1981 (4) SA 417 (C)
3.	*Di Giulio v First National Bank of South Africa Limited* 2002 (6) SA 281 (C)
4.	*Cape Produce Co. (Port Elizabeth) (Pty) Ltd v dal Maso and Another NNO* 2002 (3) SA 752 (SCA)
5.	*Wilde and Another v Wadolf Investments (Pty) Ltd and Others* 2005 (1) SA 354 (W)

6.	*Stocker v The Workforce Group (Pty) Ltd* 2010 JDR 1390 (GSJ)
7.	*Firstrand Bank Limited v Hazan* 2016 JDR 0331 (GJ)
8.	*Amler's Precedents of Pleadings, Ninth Edition* (2018)

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No.: 38401 / 2018

In the matter between:

FIRSTRAND BANK LIMITED Applicant

and

EPHRAIM MBUSO DLAMINI Respondent

GRIFFIER VAN DIE SUID-GAUTENG
HOOGGEREGSHOF JOHANNESBURG
PRIVAATSAKKOMPAKTE BAG X7
JOHANNESBURG 2000
2019 -01- 24
OPGEDIEN MOTION

APPLICANT'S CHRONOLOGY TABLE

DATE	EVENT	APPLICANT'S REFERENCE	RESPONDENT'S REFERENCE
2 September 2008	Conclusion of Suretyship by Mr Dlamini	Bundle 1, Founding Affidavit ("F.A."), par. 35, pp. 27 – 29	Bundle 3, Answering Affidavit ("A.A."), par. 49, p. 292
2 September 2008	Conclusion of the Loan Agreement	F.A., par. 9 - 12, pp. 6 – 12	A.A., par. 37 - 38, pp. 289 - 290

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2 September 2008	Conclusion of the 2008 September Addendum to the Loan Agreement	F.A., par. 11 – 12, pp. 6 – 12	A.A., par. 37 - 38, pp. 289 – 290
2 September 2008	Cession and Pledge of Rental income	F.A., par. 14.1, p. 12	A.A., par. 39, p. 290
17 October 2008	2008 October Addendum to Loan Agreement	F.A., par. 20, pp. 13 - 14	A.A., par. 39, p. 290
21 October 2008	Cession of Insurance	F.A., par. 14.2, p. 12	A.A., par. 39, p. 290
28 October 2008	Cession and Pledge of Shares	F.A., par. 12.2, p. 12	A.A., par. 38, p. 290
20 November 2008	First draw down of the R64.7 million advanced to the respondent	F.A., par. 16, p. 13	A.A., par. 39, p. 290
20 November 2008	Mortgage Bond Umhlanga Properties	F.A., par. 13.1, p. 12	A.A., par. 39, p. 290
20 November 2008	Mortgage Bond River Club Properties	F.A., par. 13.2, p. 12	A.A., par. 39, p. 290

21 November 2008	Mortgage Bond Buccleuch Properties	F.A., par. 13.3, p. 12	A.A., par. 39, p. 290
8 September 2011	2011 Addendum to the Loan Agreement	F.A., par. 21, pp. 14 – 15	A.A., par. 41, p. 290
6 October 2011	Addendum to the Suretyship	F.A., par. 11.3.1, p. 8	A.A., par. 38, p. 290
29 June 2012	2012 Addendum to the Loan Agreement	F.A., par. 22, pp. 15 – 18	A.A., par. 41, p. 290
11 December 2013	2013 Addendum to the Loan Agreement	F.A., par. 24, pp. 18 – 19	A.A., par. 41, p. 290
6 June 2014	Acknowledgment of Debt ("A.O.D.")	F.A., par. 24 – 24.2.3.5, pp. 19 – 21	A.A., par. 41, p. 290
9 December 2014	Amendment to A.O.D.	F.A., par. 24.3, p. 21	A.A., par. 41, p. 290
9 December 2014	2014 Addendum to the Loan Agreement	F.A., par. 25, pp. 21 – 22	A.A., par. 41, p. 290
25 August 2015	2015 Extension of Loan Agreement	F.A., par. 26, pp. 22 – 23	A.A., par. 41, p. 290

19 October 2015	2015 Letter of Demand	F.A., par. 33, pp. 28 - 29	A.A., par. 50, p. 275
5 November 2015	Letter from Asgar Gani Attorney	F.A., par. 45, p. 31	A.A., par. 53, p. 293
19 September 2016	Sale Agreement between respondent and Hodari	Bundle 5, Replying Affidavit ("R.A."), par. 50, p. 410	A.A., par. 19, p. 285
19 September 2016	Sale Agreement between respondent and Phatekwe	R.A., par. 50, p. 410	A.A., par. 19, p. 285
19 September 2016	Hodari Letter	R.A., par. 50, p. 410	A.A., par. 19, p. 285
29 September 2016	Email from Mr Dlamini containing Excel Spreadsheets of rates and taxes	R.A., par. 12, pp. 405 – 406	
4 October 2016	JT Ross Sale Agreement	R.A., par. 50, p. 410	A.A., par. 20, p. 285 – 286
4 November 2016	Email from Mr Dlamini containing rates and taxes invoices	R.A., par. 12, pp. 405 - 406	

24 November 2016	Revised JT Ross Sale Agreement	R.A., par. 53 - 59, pp. 411 - 412	A.A., par. 25, p. 287
9 May 2018	Letter of Demand	F.A., par. 50, pp. 32 - 33	A.A., par. 55, p. 293
31 August 2018	Certificate of Balance	F.A., par. 65, p. 38	A.A., par. 62, p. 294
25 October 2018	Application served on respondent	p. 432	
26 October 2018	Notice of intention to oppose		pp. 271 - 272
26 October 2012	Rule 35 (12) and (14) Notice ("the Notice")	R.A., par. 41, p. 409	A.A., par. 16.3, pp. 281 – 282
26 November 2018	Answering Affidavit served		pp. 273 - 274
7 November 2018	Response to the Notice	R.A., par. 41, p. 409	A.A., par. 16.3, pp. 281 – 282
14 November 2018	ENS' letter to Nozuko Nxusani affording the respondent until 19 November 2018 to supplement it's A.A.	R.A., par. 20 - 23, p. 407	A.A., par. 8, p. 277
4 December 2018	R.A. filed	pp. 397 – 398	

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A. LAHER

Applicant's Counsel

Chambers

Sandton

22 January 2019

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/07) Respondent

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that the Applicant applies for an order in the following terms:

1. That the judgment granted on 22 October 2019 under the above case number in favour of the Plaintiff against the Applicant in the amount of R27,612,987.75, together with interest and costs ("the 2019 Judgment"), be rescinded and set aside.

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2. Condoning any non-compliance with the Rules of Court relating to time periods, to the extent necessary.

3. That enforcement of the 2019 Judgment be suspended pending determination of this rescission application.

4. That the Respondent be directed to produce, within 15 days of the filing of any answering affidavit, alternatively within such period as this Honourable Court may direct, the complete transactional banking records, loan ledger, payment allocation records and interest calculations underlying the Certificate of Balance relied upon in the 2019 proceedings.

5. Alternatively, that the Respondent be directed to render a full account and debatement of account in respect of the loan account underlying the Certificate of Balance relied upon in the 2019 proceedings.

6. Alternatively, and only in the event that this Honourable Court is not minded to rescind the judgment in its entirety, that the quantum of the judgment be set aside and the loan account be referred for proper determination after production of the full transactional banking records,

internal loan ledger, payment allocation records and interest calculations underlying the Certificate of Balance.

7. That the Respondent pay the costs of this application.
8. Further alternatively, that the quantum be referred to trial.
9. Further and/or alternative relief.

TAKE FURTHER NOTICE that the Applicant will rely on the Founding Affidavit of Ephraim Mbuso Dlamini.

DATED at **JOHANNESBURG** on this the 23rd day of **MARCH 2026**.

EPHRAIM MBUSO DLAMINI
Self-Represented
30 Springhill Road, Riverclub
Sandton, Johannesburg.
Tel: (082) 606 0492
Email:mbuso.dlamini@palacegroup.co.za
Ref: PEG102/25/01/30

AND TO

EDWARD NATHAN SONNENBERGS INC
RESPONDENT'S ATTORNEYS
Tower 1, The Marc
129 Rivonia Road
Sandton
JOHANNESBURG, 2014

02-3

Tel. (011) 269 7600
Email: ckekana@ensafrica.com & goertel@ensafrica.com

02-4

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/07) Respondent

FOUNDING AFFIDAVIT

I, the undersigned,

EPHRAIM MBUSO DLAMINI,

Adult male,

do hereby make oath and state:

---

1. INTRODUCTION

1. I am the Defendant in the proceedings under the above case number in which judgment was granted against me on 22 October 2019 ("the 2019 Judgment").

2. I am also the Respondent in subsequent sequestration proceedings in which a final sequestration order was granted on 13 February 2026, founded substantially upon the 2019 Judgment.

3. The facts herein are within my personal knowledge unless otherwise stated.

4. This application seeks rescission of the 2019 Judgment. This application is brought independently of, and without prejudice to, the pending leave to appeal proceedings in respect of the sequestration order.

5. This application is directed at the correctness of the foundation indebtedness upon which the 2019 Judgment was granted. The Applicant does not seek to relitigate matters previously determined but rather places before this Honourable Court material accounting facts which

were not previously available and which go to the existence of the alleged indebtedness itself.

6. Rescission is sought on the following independent legal bases:

6.1 Rule 42(1)(a) of the Uniform Rules of Court — on the basis that the order was erroneously granted in the absence of material facts;

6.2 The common law — on the basis of material misrepresentation and/or fraud;

6.3 Alternatively, under this Honourable Court's inherent jurisdiction in terms of section 173 of the Constitution to prevent injustice.

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2. BACKGROUND

7. On 22 October 2019, under case number 38401/2018, this Honourable Court granted judgment against me in the amount of R27,612,987.75, together with interest and costs.

8. A copy of the judgment granted on 22 October 2019 is annexed hereto marked "A".

9. The judgment was founded substantially upon a Certificate of Balance signed by a representative of the Plaintiff.

10. A copy of the Certificate of Balance relied upon in the 2019 proceedings is annexed hereto marked "B".

11. The judgment was upheld by the Full Bench on 23 June 2021.

12. Applications for leave to appeal to the Supreme Court of Appeal and the Constitutional Court were refused.

13. The 2019 Judgment has given rise to subsequent legal consequences.

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3. PROCEDURAL HISTORY OF THE 2019 JUDGMENT

14. The 2019 Judgment was granted in motion proceedings.

15. The matter was determined on affidavit and documentary evidence.

16. The Certificate of Balance constituted the central evidentiary foundation for the judgment.

17. The matter did not proceed to trial.

18. No oral evidence was led.

19. No witnesses were called.

20. No cross-examination occurred.

21. No credibility findings were made following viva voce evidence.

22. The present rescission application concerns the integrity and enforceability of the foundation debt upon which that judgment was granted.

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4. DISCOVERY OF MATERIAL IRREGULARITIES

23. During 2023, after continued financial reconstruction necessitated by sequestration proceedings, I commissioned a forensic review of the underlying loan accounts.

24. That review revealed material discrepancies in the calculation of capital and interest underlying the Certificate of Balance relied upon in 2019.

25. A summary of the forensic reconstruction conducted during 2023 is annexed hereto marked "C".

26. The Plaintiff retained exclusive control over the underlying transactional records.

27. Full transactional bank statements were not made available to me during the 2019 proceedings.

28. The irregularities were not reasonably discoverable by me at the time of the original proceedings.

29. The reconstruction now placed before this Honourable Court was not available to me at the time of the 2019 proceedings. The Respondent (being the Plaintiff in the 2019 proceedings) retained exclusive control over the underlying loan account statements, payment allocations and interest calculations. The Court a quo was therefore asked to accept the certificate of balance without the benefit of a full transactional reconciliation. The reconstruction now presented is derived substantially from the Plaintiff's own payment records disclosed in the Court a quo bundle and demonstrates that the indebtedness relied upon in the certificate had already been extinguished prior to the date of certification.

30. A meeting was held with the Plaintiff's legal representatives during 2023 in an attempt to resolve the accounting discrepancies.

31. The discrepancies were not resolved.

32. This application has been launched within a reasonable time after discovery of the material irregularities.

33. The delay between the 2019 Judgment and this application is fully explained.

34. The Plaintiff retained exclusive possession and control of the underlying transactional banking records.

35. During the 2019 proceedings, the matter was determined on affidavit without the production of full transactional bank statements or a complete loan account ledger.

36. The accounting discrepancies now relied upon became reasonably discoverable only after forensic reconstruction conducted during 2023 in the context of sequestration-related financial analysis.

37. Immediately upon identifying the material irregularities, I engaged the Plaintiff's legal representatives in an attempt to resolve the discrepancies.

38. Correspondence exchanged between my legal representatives and the Plaintiff's attorneys during the period August to November 2023 is annexed hereto marked "E". This correspondence evidences ongoing engagement and bona fide attempts to resolve the accounting discrepancies and reflects that the matter had not reached substantive finality. The annexure is relied upon solely to demonstrate such engagement and the absence of acquiescence.

39. This application has accordingly been launched promptly following confirmation that the discrepancies would not be resolved consensually.

40. I respectfully submit that the delay is reasonable in the circumstances and does not constitute acquiescence in the judgment.

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5. THE CERTIFICATE OF BALANCE DEFECTS

41. The Certificate of Balance certified an indebtedness of R27,612,987.75. The correctness of that certificate lies at the heart of the present rescission application.

42. Upon reconstruction, the Plaintiff's own figures as reflected in Annexure "D":

42.1 Capital drawn of approximately R46,831,118;

42.2 Interest charged of approximately R56,436,102.

43. A copy of the Plaintiff's own summary of total payments and receipts, as relied upon in the 2019 proceedings (marked "FA25" in the Court A Quo bundle), is annexed hereto marked "D".

44. On those figures, interest exceeded capital.

45. On a corrected capital position (approximately R42,436,751.68), interest exceeded capital by an even greater margin.

46. The Certificate of Balance did not disclose:

46.1 The full transactional bank statements;

46.2 The detailed interest calculation methodology;

46.3 The basis for monthly capitalisation;

46.4 Whether statutory limits were exceeded.

47. The Court was not apprised of these material discrepancies.

48. The Court a quo accepted the Respondent (being the Plaintiff in the 2019 proceedings)'s Certificate of Balance because no detailed reconciliation was placed before it at the time and the underlying transactional banking records were not produced. The present application places before this Honourable Court, for the first time, a reconstruction derived from the Respondent's own payment records demonstrating prima facie that the indebtedness had already been extinguished by 03 April 2017. The certificate relied upon in the 2019 proceedings was therefore materially incorrect, with the result that the judgment was granted on a mistaken factual premise.

49. The certificate of balance relied upon in the proceedings culminating in the judgment of 22 October 2019 certified an indebtedness as at 31 August 2018. However, the reconstruction derived from the Respondent's own payment records demonstrates prima facie that the PEG HR indebtedness had already been extinguished by 03

April 2017. If that reconstruction is correct, the certificate necessarily reflected a materially incorrect balance as at the date of certification. The correctness of the certificate therefore requires proper judicial reconsideration upon the production of the underlying transactional records.

50. If the reconstruction reflected in Annexures "C" and "D" is correct, the Respondent was not a creditor at the time the Certificate of Balance was issued and the 2019 judgment was granted on the basis of a non-existent indebtedness. In those circumstances the integrity of the judgment itself is implicated, and rescission becomes necessary to prevent the continued enforcement of a judgment founded upon a materially incorrect certification of debt.

51. A certificate of balance serves only as prima facie evidence of indebtedness and cannot create liability where none exists. Where the underlying indebtedness has in fact been extinguished prior to the date of certification, the certificate is necessarily incorrect, and any judgment founded upon it is rendered unsustainable in law. The Court

a quo was therefore asked to enforce a certified balance which, on the Respondent's own payment records now before this Court, included amounts that were not lawfully recoverable, and which had already been discharged.

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6. EXTINGUISHMENT OF LAWFUL INDEBTEDNESS ON 03 APRIL 2017

52. The relevant date for purposes of assessing the lawful indebtedness is the date of default under the credit agreement.

53. As at the date of default, the unpaid principal was either:

53.1 Approximately R46,831,118 (as reflected in the Plaintiff's own figures); alternatively

53.2 Approximately R42,436,751.68 (on corrected reconstruction).

54. In terms of section 103(5) of the National Credit Act 34 of 2005, the aggregate of interest and other charges

accruing during default may not exceed the unpaid principal at the time of default.

55. Accordingly, the maximum lawful recoverable amount would have been:

55.1 On the Plaintiff's own capital figure: approximately R93,662,236; alternatively

55.2 On the corrected capital figure: approximately R84,873,503.36.

56. On 03 April 2017, upon transfer of Erven 2579, 2580 and 2582 to JT Ross, the Plaintiff received and applied the proceeds of the sale toward the outstanding indebtedness.

57. Upon proper application of those proceeds, and upon lawful application of section 103(5) of the National Credit Act, the indebtedness was extinguished on 03 April 2017.

58. On the Respondent's reconstruction, grounded in the Respondent's own statements and payment records reflected inter alia in Annexures "C" and "D", the PEG HR indebtedness had already been extinguished and in fact overpaid by approximately **R21,863,030.98 as at 03 April 2017**. Any subsequent certification of indebtedness after

that date therefore necessarily included amounts that were not lawfully recoverable. The payments reflected in Annexure "C" include payments made not only by PEG HR but also payments made through Friedshelf 1287 (RF) (Pty) Ltd in settlement of the underlying facility obligations. These payments appear from the Respondent's own Court A Quo records but were not properly reflected in the certificate relied upon in the 2019 proceedings.

59. By 03 April 2017 the indebtedness relied upon by the Respondent had already been discharged and in fact overpaid.

60. The reconciliation reflected in Annexure "C" does not include Erf 2583 Umhlanga Rocks, which remained an asset of PEG HR Solutions (Pty) Ltd as at 03 April 2017. To the extent that such asset was subsequently realised or disposed of, the application and accounting of any proceeds have not been disclosed to me. Nothing in this application is intended to waive or abandon any rights arising from the status, disposal or accounting of that asset. The present rescission application is confined to the

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correctness of the certified indebtedness as at the date relevant to the 2019 Judgment.

61. Any subsequent certification of indebtedness after that date necessarily included amounts that were not lawfully recoverable.

62. The Respondent's own payment records demonstrate that the PEG HR indebtedness had already been extinguished and overpaid by approximately R21,863,030.98 by 03 April 2017.

63. Had the Court been apprised of the correct accounting position, the existence of the alleged indebtedness would necessarily have been placed in dispute and the judgment would not have been granted in the form it was.

64. The judgment of 22 October 2019 was therefore granted on the basis of a materially incorrect certificate of balance reflecting an indebtedness that did not in fact exist at the time of certification.

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7. STATUTORY IN DUPLUM IRREGULARITY

65. Section 103(5) of the National Credit Act provides that, during the period of default, the aggregate of interest, fees and charges may not exceed the unpaid principal at the time default occurred.

66. The Plaintiff's own figures demonstrate that interest charged exceeded the capital amount. The Certificate did not disclose the date of default for purposes of calculating the statutory cap.

67. When properly calculated in accordance with section 103(5), the maximum lawful recoverable amount had been reached and extinguished upon application of the proceeds received on 03 April 2017.

68. Any certification of indebtedness thereafter which included amounts exceeding the statutory cap constituted a materially incorrect certification of quantum.

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8. RULE 42(1)(a): ERRONEOUSLY GRANTED ORDER

69. Rule 42(1)(a) permits rescission of an order erroneously granted in the absence of a party or in the absence of material facts.

70. Rule 42(1)(a) permits rescission of an order erroneously granted in the absence of a party or in the absence of material facts, including where the Court was unaware of facts which would have precluded the granting of the order. The reconstructed payment history now before this Court demonstrates that the indebtedness reflected in the certificate of balance had already been extinguished prior to its certification. The order was therefore granted on a materially incorrect factual premise.

71. Had this Honourable Court been apprised that:

71.1 The statutory in duplum cap had already been reached and exhausted on 03 April 2017;

71.2 The certified quantum included amounts potentially exceeding the statutory maximum;

71.3 The Certificate of Balance did not disclose compliance with section 103(5);

the Court would not have granted judgment in the certified amount.

72. The 2019 Judgment was therefore erroneously granted within the meaning of Rule 42(1)(a) in circumstances where the Court was asked to grant judgment on the basis of a Certificate of Balance certifying an indebtedness as at 31 August 2018 without the underlying transactional loan records being placed before the Court. The reconstruction now derived from the Plaintiff's own payment records demonstrates prima facie that the PEG HR indebtedness had already been extinguished by 03 April 2017. In the absence of the underlying transactional ledger and supporting bank statements, the Court was asked to accept the certificate without the benefit of a full reconciliation of the account. The judgment was therefore granted on a materially incorrect factual premise.

73. In these circumstances, the absence of the true accounting position before the Court constitutes a material fact which, had it been known, would have precluded the granting of the judgment.

74. The present application does not seek to relitigate issues previously determined by the Court a quo or by the appellate courts. The central issue raised in this application — namely whether the Certificate of Balance relied upon in the 2019 proceedings reflected a legally recoverable indebtedness — was never judicially determined on the basis of a full transactional reconstruction of the account. The present application is founded upon material accounting facts which were not previously before the Court and which go directly to the existence of the alleged indebtedness itself. If the indebtedness relied upon in the certificate had already been extinguished prior to its certification, the Court was necessarily misled as to the true state of the account.

75. The doctrine of finality or issue estoppel does not arise in the present application. The specific question now placed before this Honourable Court — namely whether the Certificate of Balance relied upon in the 2019 proceedings reflected a legally recoverable indebtedness in

light of the statutory in duplum limitation and the payments applied on 03 April 2017 — was never determined by the Court a quo or by the appellate courts. The correctness of the underlying accounting foundation of the certificate was not adjudicated on the basis of a full transactional reconstruction of the loan account. The present application therefore raises a distinct issue concerning the existence of the alleged indebtedness itself, which was not previously determined. In those circumstances, the interests of justice require that the correctness of the certified indebtedness be examined on a proper evidentiary basis.

---

9. COMMON-LAW RESCISSION (MISREPRESENTATION / FRAUD)

76. The Certificate of Balance constituted a material representation to the Court regarding the quantum of indebtedness.

77. If the certificate materially misstated the lawful indebtedness, such misstatement was material to the granting of judgment.

78. The judgment was induced by reliance upon that certificate.

79. A judgment induced by material misrepresentation is rescindable under the common law.

80. I respectfully submit that the integrity of the Certificate of Balance is materially compromised.

---

10. PROSPECTS IF REOPENED

81. If the matter is reopened:

81.1 The Plaintiff will be required to produce complete transactional records;

81.2 Interest calculations must be recalculated in accordance with statutory limits;

81.3 The quantum of the alleged indebtedness must be properly determined.

82. The Respondent alone retains possession of the complete transactional banking records underlying the loan account and the certificate of balance relied upon in the 2019 proceedings. If the certificate accurately reflected

the true state of the account, those records would readily confirm the correctness of the certified indebtedness. The absence of those records in the original proceedings, and their continued absence in the present proceedings, underscores the necessity for the account to be reopened and properly reconciled.

83. The difficulty with the Certificate of Balance relied upon in the 2019 proceedings is that its correctness necessarily depends upon the existence of a complete and accurate transactional history of the loan account. The Respondent alone retained possession and control of those underlying records. If the Respondent is unable to produce the full transactional ledger supporting the certificate, the indebtedness certified therein cannot be independently verified and the Court would have been asked to grant judgment on the basis of an unsubstantiated certification of debt.

84. Correspondence received from the Respondent's Chief Executive Office further records that the banking profile and loan account referred to in my enquiry could not

be located within the Respondent's systems. A copy of the relevant correspondence is annexed hereto marked "F". If the loan account and its associated records cannot be located within the Respondent's own systems, the evidentiary foundation of the Certificate of Balance becomes materially compromised. This admission is inconsistent with the existence of a verifiable loan account capable of supporting the certified indebtedness.

85. I further requested from the Respondent the underlying bank statements relating to the loan accounts associated with PEG HR Solutions (Pty) Ltd, including the loan account and the capital redemption reserve account from inception to date. In response, the Respondent confirmed that such accounts had 'not been issued to us from inception to date'. A copy of this correspondence is attached as Annexure 'F'. This confirmation materially undermines the reliability of the certificate of balance relied upon in the 2019 proceedings, as the certified indebtedness necessarily presupposes the existence of an

underlying loan account capable of generating transactional records.

86. The Respondent's certificate of balance necessarily presupposes the existence of a loan account capable of producing a complete transactional ledger reflecting all debits, credits, repayments and interest calculations. However, where the Respondent itself confirms that the relevant loan account records cannot be located or were not issued from inception, the certificate cannot be independently verified against the underlying transactional history. In such circumstances the reliability of the certified indebtedness becomes materially doubtful and the judgment founded upon that certification requires reconsideration by this Honourable Court.

87. In the absence of such records, the certified indebtedness is incapable of independent verification, and the continued enforcement of the judgment would constitute a manifest injustice.

88. I respectfully submit that I have a bona fide defence with reasonable prospects of success, grounded in the reconstructed payment history derived from the Respondent's own records which demonstrate that the indebtedness relied upon in the certificate had already been extinguished prior to the date of certification.

---

11. INTEREST OF JUSTICE

89. The 2019 Judgment has far-reaching legal consequences.

90. The integrity of the judicial process requires that judgments founded on materially defective accounting be revisited.

91. It is in the interests of justice that the matter be reopened.

---

12. SUSPENSION OF ENFORCEMENT PENDING DETERMINATION

92. The 2019 Judgment presently remains executable unless set aside.

93. I seek, as ancillary relief, an order suspending enforcement of the 2019 Judgment pending determination of this rescission application.

94. The integrity of the certified quantum is actively under judicial reconsideration.

95. It is just and equitable that enforcement be regulated pending final determination of this application.

---

13. PRAYER

96. I respectfully pray for an order in terms of the Notice of Motion, including:

96.1 Rescission and setting aside of the 2019 Judgment;

96.2 Declaring that the Certificate of Balance relied upon in the proceedings under case number 38401/2018 cannot, in the absence of the underlying transactional banking records, constitute sufficient proof of the indebtedness upon which the judgment of 22 October 2019 was granted;

96.3 Alternatively, referring the question of the quantum of the alleged indebtedness for proper determination after production of the full transactional banking records, internal loan ledger, payment allocation records and interest calculations underlying the Certificate of Balance;

96.4 Costs;

96.5 Further and/or alternative relief.

ANNEXURES:

Annexure "A" – Copy of 2019 Judgment (Pages 30 – 44)

Annexure "B" – Certificate of Balance (Pages 45 – 48)

Annexure "C" – Reconciliation Summary (Pages 49 – 50)

Annexure "D" – Interest vs Capital Calculation Table by Respondent (Pages 51 – 52)

Annexure "E" – 2023 Correspondence (Pages 53 – 76)

Annexure "F" – Email Correspondence from FRBL Group CEO Complaints Desk Confirming Inability to Locate the Relevant Loan Accounts Records (Pages 77 – 83)

DATED at **JOHANNESBURG** on this the 23rd day of **MARCH 2026**.

EPHRAIM MBUSO DLAMINI
Self-Represented
30 Springhill Road, Riverclub
Sandton, Johannesburg.
Tel: (082) 606 0492
Email:mbuso.dlamini@palacegroup.co.za
Ref: PEG102/25/01/30

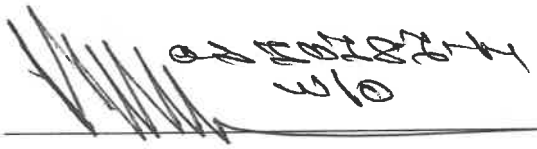
SIGNED and SWORN to before me at Johannesburg on this the 23rd of March 2026, the Deponent having declared that he knows and understands the contents of this affidavit, has no objection to taking the oath and considers the oath to be binding on his conscience.

COMMISSIONER OF OATHS

Name: MICHAEL THABO

Designation: W/O

Address: W/O 2 SUMMIT ROAD MORNINGSIDE

Signature: 

SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICE CENTRE
SANDTON
2026 -03- 23
KLIENTE DIENSSENTRUM
SANDTON
SUID-AFRIKAANSE POLISIEDIENS

TO:

The Registrar of above Honourable Court
JOHANNESBURG

AND TO

EDWARD NATHAN SONNENBERGS INC
RESPONDENT'S ATTORNEYS
Tower 1, The Marc
129 Rivonia Road
Sandton
JOHANNESBURG, 2014
Tel. (011) 269 7600
Email: ckekana@ensafrica.com & goertel@ensafrica.com

ANNEXURE A

COPY OF 2019 JUDGMENT

REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

(1) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED.

.....
SIGNATURE

22 OCT 2019
DATE

In the matter between:

CASE NO: 34779/2018

FIRSTRAND BANK LIMITED Applicant

and

PEG HR SOLUTIONS (PTY) LTD Respondent

And in the matter between:

CASE NO: 38401/2018

FIRSTRAND BANK LIMITED Applicant

and

EPHRAIM MBUSO DLAMINI Respondent

JUDGMENT

MATOJANE J

Introduction

[1] This judgment will deal with two applications: an application for the final winding-up of a company, and an application to enforce the repayment of a debt based on a suretyship agreement. Given the interrelated nature of the two applications, they can be most conveniently disposed of in one judgment as they share the same factual matrices.

[2] In the winding-up application brought under case number 34779/2018, the applicant, FirstRand Bank Limited ('FirstRand') seeks the final-winding up of the respondent, PEG HR Solutions (Pty) Ltd ('PEG') on the ground that it is unable to pay its debts as and when they fall due, as contemplated by s 344(*f*) of the Companies Act 61 of 1973, as amended (the '1973 Companies Act') read with item 9(1) of Schedule 5 of the Companies Act 71 of 2008, as amended (the '2008 Companies Act').[1]

[3] The second application with case number 38401/2018, is brought by the same applicant against the respondent, Ephraim Mbuso Dlamini ('Dlamini'), who is a director of PEG. FirstRand seeks payment from Dlamini in the sum of R27 612 987.75, together with interest and costs on an attorney and client scale. The cause of action is a written suretyship agreement in terms of which Dlamini bound himself, jointly and severally, as surety and co-principal debtor for PEG's debts in favour of FirstRand arising out of a loan facility (which will be dealt with in more detail below).

[4] The applications are essentially based upon an alleged indebtedness of PEG to FirstRand in the amount of R27 612 987.75. PEG avers that it disputes the debt on *bona fide* and reasonable grounds and that it is not indebted to the applicant. Firstly, PEG states that its indebtedness to the applicant is in dispute, and secondly, it submits

[1] Section 344(*f*) provides that a company may be wound up by the Court if the company is unable to pay its debts as described in section 345.

that it entered into a compromise with FirstRand in respect of the claim in 2015. PEG also argues that the applicant has failed to satisfy the requirements of s 345 of the 1973 Companies Act for winding-up. In this regard it states that it has sufficient assets to secure or compound the debt, which should be to the reasonable satisfaction of the applicant. It contends that the court should therefore exercise its discretion in favour of PEG, by not granting the order for its final winding-up.

Common cause facts

[5] FirstRand and PEG concluded a loan agreement on 2 September 2008 wherein FirstRand approved a loan facility in favour of PEG for R64 700 000 (the Loan Agreement). Between 2008 and 2014 the parties concluded numerous addenda to the Loan Agreement, which, amongst other things, specified the disbursement of funds. These addenda were concluded in October 2008, 2011, 2012 and 2013.

[6] An Acknowledgement of Debt was signed by PEG on 6 June 2014 in terms whereof PEG acknowledged that it has failed to meet its obligations to the applicant in terms of the Loan Agreement and that it was indebted to the applicant, as at 19 May 2015, in the amount of R56 318 835.95, plus interest (the 'Acknowledged Debt'). PEG further undertook to effect repayment of the Acknowledged Debt on certain terms, and it was agreed that the Acknowledged Debt would be settled in full by no later than 30 November 2015.

[7] On 9 December 2014, a further amendment was made to the Acknowledgement of Debt and Loan Agreement in terms of which *inter alia,* the repayment period was amended to a period which expired on 30 November 2015.

[8] On 25 August 2015, the applicant addressed a letter to PEG which stated that PEG had been granted an extension to make payment in the amount of R20 million as 'Part Settlement' by 31 August 2015 in a reduction of the loan facility, but that no further non-performance by PEG would be condoned. The letter further set out that—

'In the event that the Borrower fails to pay the Part Settlement on 31 August 2015, RMB shall, without any further notice to the Borrower, proceed to recover from the Borrower the full amount owing to RMB without prejudice to any other rights and/or remedies which may be

available to it, including legal costs and to do all things necessary in order to protect its interests.'

[9] PEG failed to make payment of the R20 million as part settlement of the outstanding balance; it also failed to settle the Acknowledged Debt and adhere to the terms of the Acknowledgment of Debt. The respondent was accordingly in breach of the agreements.

[10] As a result, the applicant demanded that PEG make payment of the outstanding balance in a letter of demand dated 19 October 2019. The applicant's demand stated that if PEG neglected to repay the outstanding amounts, or 'to secure or compound for it to the Bank's reasonable satisfaction', then PEG would be deemed to be unable to pay its debts in accordance with s 345 of the 1973 Companies Act.[2]

[11] Section 345 titled 'When company deemed unable to pay its debts' provides—

(1) A company or body corporate shall be deemed to be unable to pay its debts if—

(a) A creditor, by cession or otherwise, to whom the company is indebted in a sum not less than one hundred rands then due—

(i) has served on the company, by leaving the same at its registered office, a demand requiring the company to pay the sum so due; or

(ii) in the case of any body corporate not incorporated under this Act, has served such demand by leaving it at its main office or delivering it to the secretary or some director, manager or principal officer of such body corporate or in such other manner as the Court may direct, and the company or body corporate has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or

(b) any process issued on a judgment, decree or order of any court in favour of a creditor of the company is returned by the sheriff or the messenger with an endorsement that he has not found sufficient disposable property to satisfy the judgment, decree or order or that any disposable property found did not upon sale satisfy such process; or

[2] Read with item 9(1) of Schedule 5 of the Companies Act 71 of 2008.

(c) it is proved to the satisfaction of the Court that the company is unable to pay its debts.

(2) In determining for the purpose of subsection (1) whether a company is unable to pay its debts, the Court shall also take into account the contingent and prospective liabilities of the company

[12] PEG does not dispute that the Loan Agreement, the accompanying addenda, and the Acknowledgement of Debt were concluded. It accepts that the purpose of the Loan Agreement was to assist PEG with financing the proposed development of certain properties, being Erven 2579, 2580, 2582 and 2583 Umhlanga Rocks (the 'Umhlanga properties'), and for the payment of rates and taxes.

[13] PEG further does not dispute that from time to time, it was required to pay FirstRand monies due to it as per the agreements, the addenda, the Acknowledgement of Debt and the agreed extensions as set out above. However, PEG raises a number of defences to the winding-up application, which is also relied upon by Dlamini in relation to the suretyship application (insofar as they are applicable). It is argued that:

13.1 PEG is not indebted to the applicant and is not obliged to pay any amount whatscever to FirstRand;

13.2 If the debt is found to exist, then the amount is as a result of economic duress by FirstRand, which induced PEG to sell its Umhlanga properties at a lower value than its actual worth;

13.3 That PEG and FirstRand entered into a compromise agreement, and this precludes the applicant from pursuing a winding-up application based on a failure to pay the debt; and

13.4 That PEG has sufficient security to negate the need for the winding-up of the company. It submits that this security is sufficient to secure or compound the debt owed, to the applicant's reasonable satisfaction, and that the applicant has thus failed to satisfy the requirements as set out in s 345(1)(*a*) of the 1973 Companies Act.

Denial of indebtedness

[14] It is trite that winding-up proceedings are not to be used to enforce payment of a debt that is disputed on bona fide and reasonable grounds.[3] Where, however, the respondent's indebtedness has been prima facie established, the onus is on the respondent to show that this indebtedness is indeed disputed on bona fide and reasonable grounds.[4] The ground upon which PEG disputes its indebtedness to the applicant is set out as follows in paragraph 5 of its answering affidavit:

'The application is based upon the alleged indebtedness of the respondent in the amount of R27,612,987.75. The amount is disputed by the respondent. Its composition is shrouded in vague allegations of monies disbursed on behalf of the respondent. The amounts contained in volumes of debits and credits are not explained by the applicant. The respondent's legal representatives have requested supporting documents in relation to the amounts said to have been disbursed, only to be met with a flat refusal. This request was made in writing and by way of the notice in terms of rule 35 (12) and (14). The respondent is expected to accept the amount without question and on the say-so of the applicant.'

[15] PEG's indebtedness and the computation thereof is not disputed on bona fide and reasonable grounds. First, PEG admits correspondence sent by its attorney, Asger Gani, in terms of which it acknowledged that the Loan Agreement had been concluded with the applicant in order to assist PEG with the proposed development and with the payment of rates and taxes. In the letter, the PEG does not dispute its indebtedness to the applicant and undertakes to settle the loan in full after realising the Umhlanga properties. PEG offers to pay the interest at the rate of prime plus 2% on the loan.

[16] Second, the applicant has attached a certificate of balance to the founding affidavit in respect of the debt, and the respondents have not set out any facts in the

[3] See *Badenhorst v Northern Construction Enterprises (Pty) Ltd* 1956 (2) SA 346 (T).
[4] *Kalil v Decotex (Pty) Ltd & Another* 1988 (1) SA 943 (A) at 980B-D which states, '…an application for liquidation should not be resorted to in order to enforce a claim which is *bona fide* disputed by the company. Consequently, where the respondent shows on a balance of probability that its indebtedness to the applicant is disputed on *bona fide* and reasonable grounds, the Court will refuse a winding-up order. The *onus* on the respondent is not to show that it is not indebted to the applicant: it is merely to show that the indebtedness is disputed on *bona fide* and reasonable grounds.'

answering affidavit which rebut the amount of the indebtedness reflected in the certificate.

[17] Lastly, PEG delivered a Rule 35(12) and (14) Notice on 26 October 2018 seeking the following: proof of payment of rates and taxes in the amount of R14 million; proof of payment making up the total capital drawn in an amount of R 46.8 million; and invoices for legal fees. The applicant was obliged to answer the Rule 35 Notice by 1 November 2018. The applicant's attorneys advised PEG's attorneys on 2 November 2018 that it was in the process of collating the documents sought and undertook to respond on 5 November 2018. PEG filed its answering affidavit on 6 November 2018, and the next day, applicant adequately responded to PEG's notice by providing the documents sought by PEG. PEG was afforded until the close of business on 19 November 2018 to supplement its answering affidavit.

[18] PEG did not file a supplementary affidavit, nor did it challenge the applicant's reconciliation of payments and receipts. PEG did not compel compliance to its requests made in terms of Rule 35(12) and (14), and cannot now complain that it is unable to accurately quantify the indebtedness as a result of the applicant's refusal to respond to its request. PEG was provided with all the documentation which underpin the reconciliation prepared by the applicant, and despite being provided with the opportunity to deal with the documentation, it has elected not to do so.

The defence of compromise

[19] In response to the letter of demand, PEG held discussions with the applicant regarding the possibility of selling the Umhlanga properties to pay the debt owing to the applicant. An attempt was made to sell the properties by way of a public auction without success. Ultimately, three of the four Umhlanga properties were sold, and the proceeds was used to reduced PEG's indebtedness to the applicant. PEG contends that the parties expressly, alternatively tacitly, concluded a contract of compromise and carried out its terms through the act of the sale of the three properties, and by virtue of the applicant having accepted the proceeds of these sales. It contends that the conclusion of this compromise effectively bars the winding-up proceedings.

[20] A compromise is a settlement of the dispute that is reached by each side making concessions. The Zimbabwe Supreme Court in *Georgias v Standard Chartered Finance Zimbabwe Ltd*, with reference to numerous South African authorities, explained that:[5]

'Compromise, or *transactio*, is the settlement by agreement of disputed obligations, or of a lawsuit the issue of which is uncertain. The parties agree to regulate their intention in a particular way, each receding from his previous position and conceding something - either diminishing his claim or increasing his liability. See *Cachalia v Harberer & Co* 1905 TS 457 at 462 *in fine*; *Tauber v Von Abo* 1984 (4) SA 482 (E) at 485G - I; *Karson v Minister of Public Works* 1996 (1) SA 887 (E) at 893F - G. The purpose of compromise is to end doubt and to avoid the inconvenience and risk inherent in resorting to the methods of resolving disputes. Its effect is the same as *res judicata* on a judgment given by consent. It extinguishes *ipso jure* any cause of action that previously may have existed between the parties, unless the right to rely thereon was reserved. See *Nagar v Nagar* 1982 (2) SA 263 (ZH) at 268E - H. As it brings legal proceedings already instituted to an end, a party sued on a compromise is not entitled to raise defences to the original cause of action. See *Hamilton v Van Zyl* 1983 (4) SA 379 (E) at 383H. But a compromise induced by fraud, duress, *justus error*, misrepresentation, or some other ground for rescission, is voidable at the instance of the aggrieved party, even if made an order of court. See *Gollach& Gomperts (1967) (Pty) Ltd v Universal Mills & Produce Co (Pty) Ltd and Others* 1978 (1) SA 914 (A) at 922H. Unlike novation, a compromise is binding on the parties even though the original contract was invalid or even illegal. See *Hamilton v van Zyl* (*supra* at 383D - E); *Syfrets Mortgage Nominees Ltd v Cape St Francis Hotels (Pty) Ltd* 1991 (3) SA 276 (SE) at 288E - F.'

[21] In order for a compromise to be raised as a defence, PEG would have to allege and prove the conclusion of an agreement. There must be a consensus between the parties as to the terms of the new agreement, and the offer must be accepted. In *Reid Brothers (SA) Ltd v Fischer Bearings Co Ltd*[6] the Appellate Division held that:

'Now a binding contract is as a rule constituted by the acceptance of an offer, and an offer can be accepted by conduct indicating acceptance, as well as by words expressing acceptance. Generally, it can be stated that what is required in order to create a binding contract is that

[5] *Georgias and Another v Standard Chartered Finance Zimbabwe Ltd* 2000 (1) SA 126 (ZS) at 138I-140D.
[6] *Reid Brothers (SA) Ltd v Fischer Bearings Co Ltd* 1943 AD 232 at 241.

acceptance of an offer should be made manifest by some unequivocal act from which the inference of acceptance can logically be drawn.'

[22] In the present matter, the compromise defence was raised for the first time after the applicant had filed its heads of argument. The terms of the alleged agreement, and how it would operate, have not been stated in the affidavit. The respondent avers that the defence is premised on the facts that appears in the founding affidavit and which are common cause. PEG has failed to show that there were *animus contrahendi* between the parties regarding the conclusion of the alleged compromise agreement.

[23] In paragraph 27 of PEG's affidavit in support of the application for leave to file a further affidavit, it states as follows:

'The respondent's attorney wrote to the applicant's attorney as far back as 24 October 2018 and offered to sell the remaining property in accordance with the said compromise agreement. The applicant rejected this. In doing so, the applicant has breached the compromise and is barred from pursuing a winding-up order....'

[24] If the claim were compromised in 2015, as PEG contends it was, PEG would not still offer the applicant an opportunity to take possession of the remaining Umhlanga property. The applicant's version that the property was offered to it in order to reduce PEG's outstanding indebtedness to the applicant is more probable and effectively not in accordance with the alleged compromise agreement.

[25] Following the conclusion of the alleged compromise, the conduct of the parties demonstrates that there was no compromise agreement between them. On 9 May 2018, the applicant again demanded payment of the outstanding indebtedness from PEG. In response, PEG's attorneys informed the applicant that PEG had instructed them that the loan facility amount had been paid in full and that all the properties encumbered by bonds should be released. The applicant informed PEG that its indebtedness had not been settled in full and that the applicant would proceed with the current application. PEG never complained of a breach of the alleged compromise until the heads of argument were filed.

[26] These exchanges of correspondence are dispositive of the allegation that there was a compromise agreement between the parties.

Economic duress

[27] PEG alleges that it was forced to sell the three Umhlanga properties to JT Ross Property Group at a lower price than its actual value after the applicant had threatened to wind the company up. PEG alleges that it could have realised R4 000 per square metre, as opposed to the R3 350 per square metre that was realised for three of the four Umhlanga properties.

[28] The presence of economic duress can serve to make an agreement unenforceable against a party who was compelled by the duress to enter into it. However, not all pressure (economic or otherwise) can constitute duress sufficient to carry this legal consequence. It must be a pressure that the law regards as illegitimate, and it must be applied to such a degree as to amount to coercion.

[29] In *Medscheme Holdings (Pty) Ltd and Another v Bhamjee*,[7] Nugent JA held thus—

'English and American law both recognise that economic pressure may, in appropriate cases, constitute duress that allows for the avoidance of a contract. As pointed out by Van den Heever AJ in *Van den Berg & Kie Rekenkundige Beamptes v Bcomprops 1028 BK* 1999 (1) SA 780 (T), that principle has yet to be authoritatively accepted in our law. While there would seem to be no principled reason why the threat of economic ruin should not, in appropriate cases, be recognised as duress, such cases are likely to be rare. (The point is underlined by the dearth of English cases in which economic duress was found to have existed.) For it is not unlawful, in general, to cause economic harm, or even to cause economic ruin, to another, nor can it generally be unconscionable to do so in a competitive economy. In commercial bargaining the exercise of free will (if that can ever exist in any pure form of the term) is always fettered to some degree by the expectation of gain or the fear of loss. I agree with Van den Heever AJ (in *Van den Berg & Kie Rekenkundige Beamptes* at 795E - 796A) that hard bargaining is not the equivalent of duress, and that is so even where the bargain is the product of an imbalance in bargaining power. Something more - which is absent in this case - would need to exist for economic bargaining to be illegitimate or unconscionable and thus to constitute duress.'

[7] *Medscheme Holdings (Pty) Ltd and Another v Bhamjee* 2005 (5) SA 339 (SCA) para 18.

[30] In the present case, I am not satisfied that the circumstances outlined by the PEG constitute economic duress. PEG put the properties on public auction without success and was unable to sell the properties. A property developer, JT Ross, delivered an offer to the respondent for its consideration and signature. PEG had an opportunity to consider the offer and was free to seek legal advice in respect of it. The respondent signed and accepted the offers freely and voluntarily and appointed its attorneys, Webber Wentzel, to protect its interests during the transfer process.

The argument of 'sufficient security'

[31] The applicant is relying on the deeming provisions concerning the inability of PEG to pay its debts contained in section 345 of the old Act to establish the insolvency of PEG. It requires a liquidator to be appointed as soon as possible to take control of PEG's assets and ascertain their true value to enable it and other creditor's security to be protected and enable it to be better realised. Accordingly, the sufficiency of available security is not a bar to the applicant seeking the winding-up of PEG.

Conclusion

[32] In order for a final winding-up order to be granted, the applicant has to demonstrate the following: that it is a creditor of the respondent within the meaning of s 346(1)(*b*) of the 1973 Companies Act, which is to be read with Item 9 of Schedule 5 of the 2008 Companies Act; and that the respondent is unable to pay its debts within the meaning of s 345 of the 1973 Companies Act.[6] The applicant is a creditor of PEG, and according to the applicant's reconciliation, PEG is indebted to the applicant in the amount of R27 million. The fact that PEG is commercially insolvent is an indicator of its inability to pay its debts.

[33] The discretion of the court to not grant a winding-up order upon the application of an unpaid creditor where the jurisdictional requirements have been met is narrow

[6] *FirstRand Bank Ltd v Hazan and another; FirstRand Bank Ltd v Hazan Wholesalers and Distributors CC* [2016] 2 All SA 112 (GJ) para 51.

and not wide.[9] In *FirstRand Bank Ltd v Evans*[10] the Court made the following comments in respect of this discretion—

'there is little authority on how this discretion should be exercised, which perhaps indicates that it is unusual for a court to exercise it in favour of the debtor. Broadly speaking, it seems to mean that the discretion falls within that class of cases generally described as involving a power combined with a duty. In other words, where the conditions prescribed for the grant of a provisional order of sequestration are satisfied, then, in the absence of some special circumstances, the court should ordinarily grant the order. It is for the respondent to establish the special or unusual circumstances that warrant the exercise of the court's discretion in his or her favour'.

[34] Once the applicant has demonstrated that the respondent was prima facie indebted to it, it is for the respondent to establish that it disputed that indebtedness on bona fide and reasonable grounds. In this case, PEG has failed to discharge the onus of demonstrating that its indebtedness to the applicant has indeed been disputed on bona fide and reasonable grounds. PEG has failed to make payment, secure or compound for this indebtedness to reasonable satisfaction of the applicant. Demands have been transmitted to PEG and no payments have been forthcoming and PEG which is commercially insolvent stands to be wound up. PEG has not set out special or unusual circumstances which would lead the Court to exercise its discretion not to grant the winding-up order in this case.

[35] In the result, I find that the applicant has established its case on a balance of probabilities for the winding-up of PEG.

[36] In respect of the second application, the agreement of suretyship between FirstRand and Dlamini, dated 2 September 2008, is not in dispute. In terms of the suretyship, the Dlamini agreed to bind himself jointly and severally as surety for and co-principal debtor *in solidum* with PEG, for the due and punctual payment by PEG to the applicant of the sum of R30 000 000 plus interest and costs thereon.

[9] Ibid paras 59-60.
[10] *FirstRand Bank Ltd v Evans* 2011 (4) SA 597 (KZD) para 27.

[37] Since a surety can invoke the defences available to the principal in defending a claim, Dlamini has raised the defences raised by PEG which I have rejected. The applicant is therefore entitled to enforce its claim in terms of the suretyship agreement.

[38] Despite proper service of the Suretyship Demand Mr Ephraim Mbuso Dlamini has failed to pay the applicant as per demand. In the result:

The following order is granted in the matter with case number 34779/2018:

(a) The respondent PEG HR Solutions Proprietary Limited is placed under final winding-up order in the hands of the Master.

(b) The applicant's costs are to be the costs in the liquidation of the respondent.

The following order is granted in the matter with case number 38401/2018:

(a) The respondent Ephraim Mbuso Dlamini is ordered to pay the applicant the amount of R27 612 987.75 (twenty seven million, six hundred and twelve thousand, nine hundred and eighty seven Rand, and seventy five cents);

(b) Plus further interest thereon at the rate of prime plus 2% per annum, calculated from 31 August 2018 to date of payment, both days inclusive;

(c) Costs of suit on an attorney and own client scale.

K E MATOJANE
JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG

Date of hearing: 15 August 2019

Date of judgment: 23 October 2019

Appearances:

Counsel for the Applicant:	Adv. A Laher
Instructing Attorneys:	Edward Nathan Sonnenbergs Inc
Counsel for the Respondent:	Adv. C Georgiades SC
Instructing Attorneys:	Nozuko Nxusani Inc

ANNEXURE B

CERTIFICATE OF BALANCE

"FA46"
270

1 Merchant Place Cnr Fredman Dr & Rivonia Rd Sandton 2196
PO Box 786273 Sandton 2146 South Africa
Switchboard +27 11 282-8000
Facsimile +27 11 282-8008
www.rmb.co.za

Reg No 1929/001225/06
An Authorised Financial Services Provider

RAND MERCHANT BANK
A division of FirstRand Bank Limited

CERTIFICATE OF BALANCE

I, the undersigned,

JEAN DU PLESSIS

in my capacity as a Credit Executive of Rand Merchant Bank (Registration number 1929/001225/06), a division of FirstRand Bank Limited ("the Applicant"), do hereby certify that Ephraim Mbuso Dlamini (Identity Number 5610185771087) is indebted to the Applicant in the amount of R27 612 987.75 (Twenty Seven million, six hundred and twelve thousand, nine hundred and eighty seven Rand and seventy five cents) as at 31 August 2018 plus penalty interest thereon at the Applicant's prime rate plus 2% interest per annum, calculated on a daily basis and capitalised monthly in arrears from date mentioned to date of payment.

JEAN ALBERTUS DU PLESSIS

Directors LL Cippenaar (Chairman) SE Nkosana (Chief Executive Officer) VW Bartlett JJH Bester JP Burger MS Burgess P Cooper (Alternate) L Crouse JJ Durand GG Gelink PM Goss NN Gwagwa PK Harris WR Jardine EG Matenge-Sebesho AT Mikkelsen D Premnarayan (India) KB Schoeman BJ van der Ross JH van Greuning Company Secretary BW Unell

RMB Circlebrook Board: SE Nkosana (Chairman) AP Pullinger (Chief Executive Officer) MG Field (Chief Financial Officer) PS Gard (Chief Operating Officer) D Kruger (Chief Risk Officer) ME Oberholster (Chief Investment Officer) JP Burger DJR Crele LL Cippenaar DA Frankel PM Goss RP Goss PR Hiscox A Perold MN Qhena R Loubser GN Mazarire

20110707/09

Go to Audit Certificate Report

1 Merchant Place, Cnr Fredman Dr & Rivonia Rd, Sandton, ZA.GT, SOUTH AFRICA, 2196
PO Box 786273, Sandton, ZA.GT, SOUTH AFRICA, 2146
www.rmb.co.za
Registration No: 1929/001225/06
An Authorised Financial Service Provider

Enquiries:
Cara Mullin
Tel: +27 11 2826210
Fax: +27 11 2826328
E-mail: cara.mullin@rmb.co.za

RAND MERCHANT BANK
A division of FirstRand Bank Limited

PEG HR Solutions (Pty) Ltd

2 Osborn Rd

Houghton Office Park

4th Floor Houghton

Johannesburg
2196
Attention:

Account Number: 0000002527
Account Name: PEG HR Solutions 2527 Term

Currency: ZAR

Lender Name: Rand Merchant Bank a division of FirstRand Bank Ltd

Date produced: 05/09/2018 10.40.31

Statement of Account
for the period 23 May 2014 to 05 September 2018

Date	Days	Base Rate Type	Base Rate	Base Rate Units	Margin	Margin Rate Units	All-in Rate	All In Rate Units	Drawdown	Total Payment	Capital Payment	Interest Payment	Interest Accrued	Interest Compounded	Total Balance
2014/11/10	0	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	39 459 859.09	0.00	0.00	0.00	0.00	0.00	39 459 859.09
2014/11/26	10	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	0.00	0.00	0.00	100 026.36	100 026.36	39 559 885.45
2014/12/01	3	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	0.00	0.00	0.00	39 583.95	0.00	39 599 469.40
2015/01/01	31	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	0.00	0.00	0.00	310 667.52	0.00	39 910 136.92
2015/02/01	31	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	0.00	0.00	0.00	310 667.53	0.00	40 220 804.45
2015/02/25	24	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	0.00	0.00	0.00	280 783.57	0.00	40 501 588.02
2015/03/01	30	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	0.00	0.00	0.00	310 867.52	0.00	40 812 455.54
2015/04/01	31	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	0.00	0.00	0.00	300 439.54	0.00	41 112 895.08
2015/05/01	30	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	0.00	0.00	0.00	310 867.53	0.00	41 423 762.61
2015/05/30	29	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	20 000 000.00	20 000 000.00	0.00	298 811.55	0.00	21 716 874.16
2015/07/01	1	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	0.00	0.00	0.00	4 859.50	0.00	21 720 633.66
2015/07/24	23	FNBPR	9.250	SIMP	0.000	SIMP	9.250	SIMP	0.00	0.00	0.00	0.00	114 058.30	0.00	21 834 901.96
2015/08/01	7	FNBPR	9.500	SIMP	0.000	SIMP	9.500	SIMP	168 682.19	0.00	0.00	0.00	36 854.72	0.00	22 040 438.87
2015/08/03	1	FNBPR	9.500	SIMP	0.000	SIMP	9.500	SIMP	0.00	0.00	0.00	0.00	5 134.68	2 305 605.91	22 033 773.55
2015/08/31	30	FNBPR	9.500	SIMP	0.000	SIMP	9.500	SIMP	183 369.66	0.00	0.00	0.00	172 044.93	0.00	22 367 187.94
2015/09/01	1	FNBPR	9.500	SIMP	0.000	SIMP	9.500	SIMP	0.00	0.00	0.00	0.00	5 778.82	177 821.35	22 372 964.76
2015/09/28	28	FNBPR	9.500	SIMP	0.000	SIMP	9.500	SIMP	158 164.30	0.00	0.00	0.00	158 869.81	0.00	22 697 999.06
2015/10/01	3	FNBPR	9.500	SIMP	0.000	SIMP	9.500	SIMP	0.00	0.00	0.00	0.00	5 863.75	174 733.66	22 703 862.81
2015/10/31	30	FNBPR	9.500	SIMP	0.000	SIMP	9.500	SIMP	0.00	0.00	0.00	0.00	183 185.96	183 185.96	22 887 048.77
2015/11/01	1	FNBPR	9.500	SIMP	0.000	SIMP	9.500	SIMP	171 780.82	0.00	0.00	0.00	5 958.99	0.00	23 064 788.49
2015/11/20	19	FNBPR	9.500	SIMP	0.000	SIMP	9.500	SIMP	0.00	0.00	0.00	0.00	101 727.67	0.00	23 266 514.16
2015/12/01	11	FNBPR	9.750	SIMP	0.000	SIMP	9.750	SIMP	0.00	0.00	0.00	0.00	126 522.16	334 206.75	23 393 036.34
2016/01/01	31	FNBPR	9.750	SIMP	0.000	SIMP	9.750	SIMP	0.00	0.00	0.00	0.00	359 330.01	359 330.01	23 752 366.35
2016/01/29	28	FNBPR	9.750	SIMP	0.000	SIMP	9.750	SIMP	0.00	0.00	0.00	0.00	327 243.72	0.00	24 079 610.07
2016/02/01	3	FNBPR	10.250	SIMP	0.000	SIMP	10.250	SIMP	0.00	0.00	0.00	0.00	35 859.37	364 193.59	24 116 469.66
2016/02/04	3	FNBPR	10.250	SIMP	0.000	SIMP	10.250	SIMP	0.00	0.00	0.00	0.00	37 166.82	0.00	24 153 636.56
2016/02/23	19	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	364 182.82	0.00	0.00	0.00	281 318.63	0.00	24 519 088.41
2016/03/01	7	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	103 841.15	422 325.80	24 622 929.56
2016/03/31	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	2 739.42	0.00	0.00	0.00	254 565.21	0.00	24 877 494.77
2016/04/01	1	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	168 663.72	0.00	25 046 158.49
2016/04/26	27	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	19 062.85	0.00	0.00	0.00	15 282.77	468 541.70	25 094 210.68
2016/05/01	5	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	433 927.01	0.00	25 527 247.54
2016/05/31	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	45 346.16	463 313.19	25 575 593.72
2016/06/29	15	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	453 827.25	453 827.25	26 029 422.97
2016/07/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	2 939.00	0.00	0.00	0.00	299 688.71	0.00	26 332 050.68
2016/08/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	313 548.91	473 238.64	26 518 490.61
													454 093.86	454 093.86	27 331 550.49

2016/09/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	479 339.41	499 339.41	47 533 889.90
2016/10/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	488 361.88	488 361.88	48 022 251.78
2016/11/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	509 825.28	509 825.28	48 532 077.06
2016/12/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	498 617.23	498 617.23	49 030 694.29
2017/01/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	520 531.34	520 531.34	49 551 225.63
2017/02/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	526 057.53	520 057.53	50 077 283.16
2017/03/01	28	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	480 193.13	480 193.13	50 557 476.29
2017/03/02	1	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	6 920 483.00	0.00	0.00	0.00	17 314.21	0.00	57 495 273.50
2017/04/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	590 528.97	607 841.18	58 085 800.47
2017/04/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	37 178 678.83	25 203 580.00	10 975 098.83	39 784.80	39 784.80	20 046 906.44
2017/04/12	9	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	2 956 875.35	0.00	0.00	0.00	64 562.38	0.00	23 998 444.17
2017/05/01	19	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	155 734.16	220 296.54	24 154 178.33
2017/05/11	10	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	36 634.00	0.00	0.00	0.00	82 719.79	0.00	24 273 532.12
2017/06/01	21	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	173 975.02	256 694.81	24 447 507.14
2017/07/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	251 173.02	251 173.02	24 698 680.16
2017/07/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	251 173.02	0.00	251 173.02	18 916.91	18 916.91	24 464 424.05
2017/07/21	18	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	150 868.09	0.00	24 615 292.14
2017/08/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	241 125.38	0.00	241 125.38	90 317.29	241 125.38	24 464 424.05
2017/09/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	254 530.55	0.00	254 530.55	254 530.55	254 530.55	24 464 424.05
2017/10/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	246 319.89	246 319.89	24 710 743.94
2017/11/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	257 093.28	257 093.28	24 967 837.22
2017/12/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	251 388.50	251 388.50	25 219 225.72
2018/01/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	262 383.59	262 383.59	25 481 609.31
2018/02/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	265 113.46	265 113.46	25 746 722.77
2018/03/01	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	241 948.65	241 948.65	25 988 671.42
2018/03/29	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	244 222.31	0.00	26 232 893.73
2018/04/01	3	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	25 632.56	269 854.97	26 258 526.39
2018/05/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	258 988.21	258 988.21	26 517 514.60
2018/06/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	270 260.69	270 260.69	26 787 775.29
2018/07/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	264 208.20	264 208.20	27 051 983.49
2018/07/11	10	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	15 502.00	0.00	0.00	0.00	88 938.03	0.00	27 156 423.52
2018/08/01	21	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	186 876.88	275 814.91	27 343 300.40
2018/09/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	278 676.93	278 676.93	27 621 977.33
2018/09/05	4	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	36 324.79	0.00	27 658 302.12

← 07 May 2018 - R26 569 823.12

← 31 August 2018 - R27 612 987.75

Please note: Statement reflects interest accruals up to and excluding each line item date and thus excludes interest accrued for 05/09/2018.

ANNEXURE C

RECONCILIATION SUMMARY

ITEM NO	DESCRIPTION	AMOUNT	
		FIRST RAND BANK as at 31 August 2018	PEG HR / DLAMINI as at 03 April 2017
1	Capital Drawn	R46 831 118	R42 436 751,68
2	Initial / Restructure Fees	R3 613 800	R0,00
3	Interest	R56 436 102	R42 436 751,68
4	Rates and Taxes Funded	R14 907 458	R9 907 458,00
5	Legal Fees	R164 883	R0,00
6	Repayments	-R94 340 373	-R116 643 992,34
7	Subtotal (per respective column dates)	R27 612 988	-R21 863 030,98

ANNEXURE D

INTEREST VS CAPITAL CALCULATION TABLE BY RESPONDENT

"FA25" 233

Summary of total payments and receipts	
Capital Drawn	46 831 118
Initial / Restructure Fees	3 613 800
Interest	56 436 102
Rates and taxes funded	14 907 458
Legal fees	164 883
Repayments	-94 340 373
Balance 31 Aug 2018	27 612 988

ANNEXURE E

2023 CORRESPONDENCE

emdlamini02@gmail.com

From: Silas Boloka <Boloka@blakes.co.za>
Sent: Tuesday, 05 September 2023 11:22
To: emdlamini02@gmail.com
Subject: FW: FIRSTRAND BANK LTD / EPHRAIME NBUSO DLAMINI

SEE EMAIL AS DISCUSSED TODAY.

Kind Regards

Boloka Tlou Silas
Director
Blakes Maphanga Attorneys
c: 082 851 0410 p:011 509-8000 | e:boloka@blakes.co.za |
www.blakes.co.za | a: 271 Kent ave, Ferndale, Randburg, 2194
Also at: 3 Eaton Terrace, Terrace Building, 1 st Floor, New Redruth, Alberton
1449, and 7 – 9th Street West, Menlo Park, Pretoria 0081

BLAKES MAPHANGA ATTORNEYS

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From: Jenni Stoop <Jenni@dmlegal.co.za>
Sent: Tuesday, September 5, 2023 11:17 AM
To: Silas Boloka <Boloka@blakes.co.za>
Cc: Daan Mostert <Daan@dmlegal.co.za>
Subject: FW: FIRSTRAND BANK LTD / EPHRAIME NBUSO DLAMINI

From: Jenni Stoop
Sent: Tuesday, September 5, 2023 11:16 AM

To: 'Kathryn Kotze' <kkotze@ensafrica.com>
Subject: RE: FIRSTRAND BANK LTD / EPHRAIME NBUSO DLAMINI

Dear Kathryn,

We acknowledge the content of your e-mail dated 05 September 2023.

Kindly provide us with reasons why your client wants to access our client's properties before we finalise whether we sell or not.

Yours faithfully
DAAN MOSTERT

MOSTERT SKOSANA INCORPORATED
ATTORNEYS NOTARIES CONVEYANCERS

Tel: (011) 509 8000
Cell: 082-881-8521
P O Box 415 Auckland Park 2006

1st FLOOR 271 KENT AVENUE RANDBURG 2194

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From: Kathryn Kotze <kkotze@ensafrica.com>
Sent: Tuesday, September 5, 2023 9:02 AM
To: Jenni Stoop <Jenni@dmlegal.co.za>
Cc: Calvin Kekana <ckekana@ensafrica.com>
Subject: RE: FIRSTRAND BANK LTD / EPHRAIME NBUSO DLAMINI

Morning Jenni

With reference to the below, please note that our client has indicated their desire to inspect the properties either during the course of this week or on Monday or Tuesday next week.

Please urgently engage with your client in order to schedule a time to inspect the properties.

Our client's rights remain expressly reserved.

Kind regards
Kathryn

Kathryn Kotze
Senior Associate
Insolvency, Restructuring and Business Rescue
+27 82 788 0725
+27 11 269 7600
kkotze@ENSafrica.com

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WE THRIVE ON INGENUITY.

Before depositing funds, please call the person responsible for your matter to verify that the bank account you have on record is a legitimate bank account of ENS

ENSafrica email disclaimer

From: Kathryn Kotze <kkotze@ensafrica.com>
Sent: 04 September 2023 02:23 PM
To: Jenni Stoop <Jenni@dmlegal.co.za>
Cc: Calvin Kekana <ckekana@ensafrica.com>
Subject: RE: FIRSTRAND BANK LTD / EPHRAIME NBUSO DLAMINI

Afternoon Ms Stoop

Our client is in the process of considering the offer received from your client, and we hope to revert shortly.

However, in the interim our client has requested access to both properties. Please will you highlight this to your client. We will revert regarding availability to access the properties, however we have been requested to secure dates during the course of this week, we will however keep you updated.

Our client's rights remain expressly reserved.

Kind regards
Kathryn

From: Jenni Stoop <Jenni@dmlegal.co.za>
Sent: 25 August 2023 10:57 AM
To: Kathryn Kotze <kkotze@ensafrica.com>
Subject: RE: FIRSTRAND BANK LTD / EPHRAIME NBUSO DLAMINI

ENSAFRICA ATTORNEYS
Sandton

YOUR REF.: MS KATHRYN KOTZE
OUR REF.: DAAN MOSTERT

re: FIRSTRAND BANK LIMITED versus EPHRAEME MBUSO DLAMINI

Please see our enclosed letter.

annexure

Yours faithfully
DAAN MOSTERT

MOSTERT SKOSANA INCORPORATED
ATTORNEYS NOTARIES CONVEYANCERS

Tel: (011) 509 8000
Cell: 082-881-8521
P O Box 415 Auckland Park 2006

1st FLOOR 271 KENT AVENUE RANDBURG 2194

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From: Kathryn Kotze <kkotze@ensafrica.com>
Sent: Thursday, August 24, 2023 10:00 AM
To: Daan Mostert <Daan@dmlegal.co.za>; Jenni Stoop <Jenni@dmlegal.co.za>
Cc: Calvin Kekana <ckekana@ensafrica.com>
Subject: FIRSTRAND BANK LTD / EPHRAIME NBUSO DLAMINI

Dear Daan and Jenni

We refer to the without prejudice meeting that was held at our offices on 23 August 2023 between our offices and our respective clients.

Please note, and as advised, the Bank is prepared to provide an indulgence to your client until close of business tomorrow, Friday, 25 August 2023, to submit a proposal to the Bank in respect of the indebtedness owing. Should your client fail to subn such proposal, the Bank requires that he file his answering affidavit by no later than Monday, 28 August 2023.

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We look forward to hearing from you.

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Kind regards
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Kathryn Kotze
Senior Associate
Insolvency, Restructuring and Business Rescue
+27 11 269 7600
+27 82 788 0725

08-5

kkotze@ENSafrica.com
ENSafrica locations
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From: Daan Mostert <Daan@dmlegal.co.za>
Sent: 18 August 2023 12:34 PM
To: Kathryn Kotze <kkotze@ensafrica.com>
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Subject: RE: YOUR REF.: MS KATHRYN KOTZE - FIRSTRAND BANK LTD / EPHRAEME NBUSO DLAMINI

Dear Kathryn

Proposed dates and times are as follows:

22 August
16h00-17h00

23 August
11h00 – 12h00
16h00-17h00

24 August
11h00-12h00
16h30 – 17h30

Please advise soonest

Daan Mostert: Director

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To: Jenni Stoop <Jenni@dmlegal.co.za>; daan@dmlegal.co.za
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Sandton

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emdlamini02@gmail.com

From: Silas Boloka <Boloka@blakes.co.za>
Sent: Thursday, 24 August 2023 12:37
To: Pule Seleka; ghandi@badela.co.za; emdlamini02@gmail.com
Subject: Fwd: FIRSTRAND BANK LTD / EPHRAIME NBUSO DLAMINI

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From: Daan Mostert <Daan@dmlegal.co.za>
Sent: Thursday, August 24, 2023 10:04:51 AM
To: Silas Boloka <Boloka@blakes.co.za>
Subject: FW: FIRSTRAND BANK LTD / EPHRAIME NBUSO DLAMINI

Please see Silas

Daan Mostert: Director

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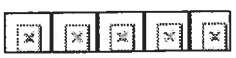

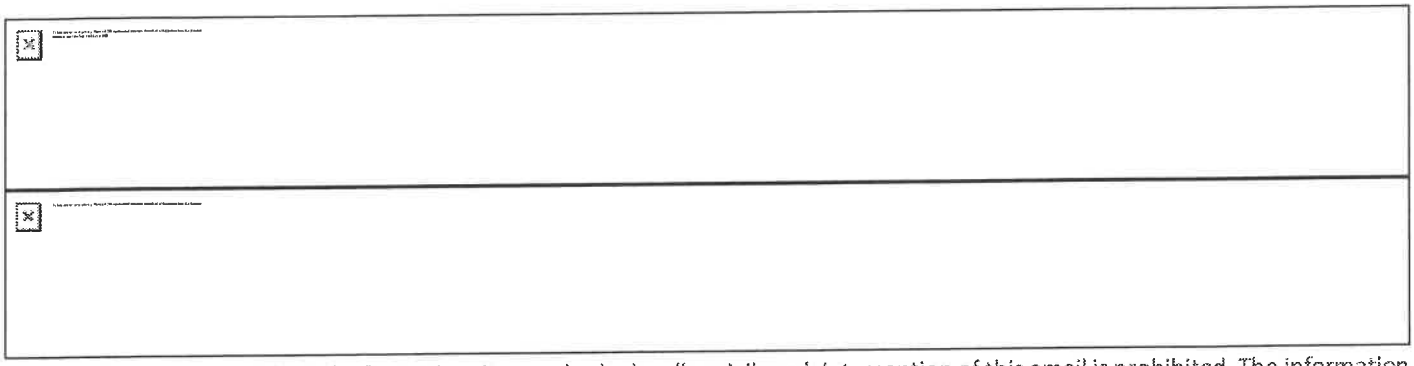

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ENSAFRICA ATTORNEYS
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08-15

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emdlamini02@gmail.com

From: Silas Boloka <Boloka@blakes.co.za>
Sent: Wednesday, 16 August 2023 19:56
To: Pule Seleka; emdlamini02@gmail.com; ghandi@badela.co.za
Subject: Re: YOUR REF.: MS KATHRYN KOTZE - FIRSTRAND BANK LTD / EPHRAEME NBUSO DLAMINI

They didn't say anything but I am planning to include it in my reply.

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From: Pule Seleka <selekapg@duma.nokwe.co.za>
Sent: Wednesday, August 16, 2023 5:45:48 PM
To: emdlamini02@gmail.com <emdlamini02@gmail.com>; Silas Boloka <Boloka@blakes.co.za>; ghandi@badela.co.za <ghandi@badela.co.za>
Subject: RE: YOUR REF.: MS KATHRYN KOTZE - FIRSTRAND BANK LTD / EPHRAEME NBUSO DLAMINI

What happens with the due date for filing an answering affidavit? Is it also extended?

From: emdlamini02@gmail.com <emdlamini02@gmail.com>
Sent: Wednesday, August 16, 2023 4:43 PM
To: 'Silas Boloka' <Boloka@blakes.co.za>; Pule Seleka <selekapg@duma.nokwe.co.za>; ghandi@badela.co.za
Subject: RE: YOUR REF.: MS KATHRYN KOTZE - FIRSTRAND BANK LTD / EPHRAEME NBUSO DLAMINI

Goo afternoon

I will fit in with your availability and that of SC and Ghandi.

From: Silas Boloka <Boloka@blakes.co.za>
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To: Pule Seleka <selekapg@duma.nokwe.co.za>; ghandi@badela.co.za; emdlamini02@gmail.com
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08-18

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Tel: (011) 509 8000
Cell: 082-881-8521
P O Box 415 Auckland Park 2006
DOCEX 11 RANDBURG
1st FLOOR 271 KENT AVENUE FERNDALE RANDBURG 2194
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From: Kathryn Kotze <kkotze@ensafrica.com>
Sent: Wednesday, August 16, 2023 3:26 PM
To: Jenni Stoop <Jenni@dmlegal.co.za>; Daan Mostert <Daan@dmlegal.co.za>
Cc: Calvin Kekana <ckekana@ensafrica.com>
Subject: RE: YOUR REF.: MS KATHRYN KOTZE - FIRSTRAND BANK LTD / EPHRAEME NBUSO DLAMINI

Dear Daan and Jenni

Please could you advise of three suitable dates and times next week in order for us to schedule the meeting.

Kind regards
Kathryn

Kathryn Kotze
Senior Associate
Insolvency, Restructuring and Business Rescue
+27 11 269 7600
+27 82 788 0725
kkotze@ENSafrica.com
ENSafrica locations
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From: Kathryn Kotze
Sent: 11 August 2023 12:33 PM
To: Jenni Stoop <Jenni@dmlegal.co.za>; daan@dmlegal.co.za
Cc: Calvin Kekana <ckekana@ensafrica.com>
Subject: RE: YOUR REF.: MS KATHRYN KOTZE - FIRSTRAND BANK LTD / EPHRAEME NBUSO DLAMINI

Afternoon Daan and Jenni

We note that your counsel is not available at the suggested time. We will engage with our client regarding their availability at such time, but we do not believe same will be possible.

Please note that we will not be bringing counsel, as we do not believe same necessary. Please advise whether you still persist with requiring counsel to attend with you.

Kind regards
Kathryn

From: Kathryn Kotze
Sent: 10 August 2023 09:42 AM
To: Jenni Stoop <Jenni@dmlegal.co.za>
Cc: Calvin Kekana <ckekana@ensafrica.com>
Subject: RE: YOUR REF.: MS KATHRYN KOTZE - FIRSTRAND BANK LTD / EPHRAEME NBUSO DLAMINI

WITHOUT PREJUDICE

Morning Madam

With reference to the below, please revert regarding the proposed time in order for us to confirm the proposed meeting.

Our client's rights remain expressly reserved.

Kind regards
Kathryn

From: Kathryn Kotze <kkotze@ensafrica.com>
Sent: 07 August 2023 01:49 PM
To: Jenni Stoop <Jenni@dmlegal.co.za>
Cc: Calvin Kekana <ckekana@ensafrica.com>
Subject: RE: YOUR REF.: MS KATHRYN KOTZE - FIRSTRAND BANK LTD / EPHRAEME NBUSO DLAMINI

WITHOUT PREJUDICE

Afternoon Madam

Our client has indicated their availability to meet at 09h00 on Wednesday, 16 August 2023. Please confirm whether this is in order. Such meeting to be held at our offices in Sandton.

Our client has also requested that in preparation for such meeting, your offices provide us with more comprehensive details as to what your client intends proposing to our client in order for there to be a meaningful engagement.

Our client is also prepared to afford your client an indulgence in respect of the filing of his answering affidavit until Friday, 18 August 2023.

We also wish to record that counsel for our client will not be attending the meeting as we do not believe same is necessary.

Our client's rights remain expressly reserved.

Kind regards
Kathryn

From: Jenni Stoop <Jenni@dmlegal.co.za>
Sent: 07 August 2023 12:50 PM
To: Kathryn Kotze <kkotze@ensafrica.com>; Calvin Kekana <ckekana@ensafrica.com>
Subject: re: YOUR REF.: MS KATHRYN KOTZE - FIRSTRAND BANK LTD / EPHRAEME NBUSO DLAMINI

ENSAFRICA ATTORNEYS
Sandton

YOUR REF.: MS KATHRYN KOTZE
OUR REF.: DAAN MOSTERT

re: FIRSTRAND BANK LIMITED versus EPHRAEME MBUSO DLAMINI

Please see our enclosed letter.

annexure

Yours faithfully
DAAN MOSTERT

MOSTERT SKOSANA INCORPORATED
ATTORNEYS NOTARIES CONVEYANCERS

Tel: (011) 509 8000
Cell: 082-881-8521
P O Box 415 Auckland Park 2006
1st FLOOR 271 KENT AVENUE RANDBURG 2194

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ANNEXURE F

Email Correspondence from FRBL Group CEO Complaints Desk Confirming Inability to Locate the Relevant Loan Accounts Records

Mbuso

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Friday, 29 November 2024 12:32
To: mbuso@icon.co.za
Cc: FNB CEOComplaints
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for your email.

Our team is actively working on the matter, please be assured that we are giving your request the attention it deserves.

We understand the importance of this issue and appreciate your understanding during this process.

Yours sincerely.

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service
CEOcomplaints@fnb.co.za
+27 87 311 8039

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For more information regarding the full legal disclaimer pertaining to this email, visit our website or download the FNB App.

From: Mbuso <mbuso@icon.co.za>
Sent: Friday, November 29, 2024 8:50 AM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

Good Day Samantha

Please try to find the following and send me the bank statements from inception to date, which may assist us, because there is a link between PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd:

1. Please urgently send me all bank statements of PEG HR Solutions Pty Ltd, which include but are not limited to the following, from inception to date:
    a. Account Name "Loan Account".
    b. Account Name "Past Due", account number SMT-LC11I00171.
    c. Account Name "PEG HR Solutions 2527 Term", account number 0000002527.
    d. Account Name "PEG HR Term Loan 7298 R25m", account number 0000007298.
    e. Any other bank accounts held at First Rand Bank Limited in the name of PEG HR Solutions Pty Ltd.

Please search for them using the account numbers above, my ID number 561018 5771 087 as well as using the account / company name PEG HR Solutions Pty Ltd. Did you try searching for the Friedshelf 1287 (RF) Pty Ltd bank accounts using the account / company name Friedhslef 1287 (RF) Pty Ltd?

Once you get the PEG HR Solutions Pty Ltd bank accounts, we will try to link back to Friedshelf 1287 (RF) Pty Ltd.

09-2

Please let me know if you are unable to find the PEG HR Solutions Pty Ltd so that we may use more information to find these bank accounts.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of PEG HE Solutions Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Friday, 29 November 2024 08:36
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

Dear Mr Dlamini.

Thank you for taking the time to answer my call.

As per telephonic discussion,we are unable to locate the below as per your request.

1. Account Holder : Friedshelf 1287 (RF) Pty Ltd
2. Account Numbers:
    a. Loan Account: has not been issued to us from inception to date.
    b. Capital Redemption Reserve Account: has not been issued to us from inception to date.
    c. Other Accounts we have with yourselves:
        i. Collection Account Number SMT – DC11A00276.
        ii. Operating Account Number SMT – DC11A00277.
        iii. Deposit Account Number SMT – DC15J00340.
    d. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Kindly provide the business account number for Friedshelf 1287 (RF) Pty Ltd or documentation that may assist us to locate the banking profile.

Yours sincerely.

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service
CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, November 28, 2024 5:19 PM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good day

Thanks for your quick response. My ID number is 561018 5771 087.

I hope that this helps you, but please let me know if the ID number does not help you, so that I may send you more information.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Thursday, 28 November 2024 15:46
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for your response.

We are still unable to locate the banking profile.

May I please request that you provide your identity number and contact number, once received we will be able to address your request more effectively.

Kind Regards

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service
CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, November 28, 2024 3:06 PM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good day Samantha

Thank you for coming back to us.

1. Account Holder : Friedshelf 1287 (RF) Pty Ltd
2. Account Numbers:
    a. Loan Account: has not been issued to us from inception to date.
    b. Capital Redemption Reserve Account: has not been issued to us from inception to date.
    c. Other Accounts we have with yourselves:
        i. Collection Account Number SMT – DC11A00276.
        ii. Operating Account Number SMT – DC11A00277.
        iii. Deposit Account Number SMT – DC15J00340.
    d. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Please send us bank statements from inception to date for 2a and 2b as soon as possible. Please also send us for 2c (i) to 2c (iii) as well as 2d if you do have 2d.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Thursday, 28 November 2024 13:53
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for reaching out to the CEO's Desk.

We appreciate your email.

To better assist you, could you please provide more details regarding your inquiry.

Specifically, we would need the following information:

1. Business Account Number

Once we have this information, we will be able to address your request more effectively.

Thank you for your understanding and cooperation.

Yours sincerely,

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Wednesday, November 27, 2024 7:05 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; busi.zwane@firstrand.co.za; admin@palacegroup.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Ms Mary Vilakazi

This is a follow up on my request that I sent to you on the 19th of November 2024.

We have not received the information to date, i.e. up to now. I had asked that you send us same by close of business yesterday, the 26 November 2024.

If we do not receive the following bank statements of Friedshelf 1287 (RF) Pty Ltd by tomorrow at 12h00, we will have no choice but to request assistance from the bodies mentioned below:

1. Loan Account from inception to date; and
2. Capital Redemption Reserve Account from inception to date.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

From: Mbuso <mbuso@icon.co.za>
Sent: Tuesday, 19 November 2024 21:02
To: 'mary.vilakazi@firstrand.co.za' <mary.vilakazi@firstrand.co.za>
Cc: 'Mulder, Barbi' <barbi.mulder@firstrand.co.za>; 'busi.zwane@firstrand.co.za' <busi.zwane@firstrand.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd

Good Day Ms Mary Vilakazi

5

Kindly and urgently provide us with **a copy of Friedshelf 1287 (RF) Pty Ltd Loan Account bank statement from inception to date**.

You are kindly advised that should not receive a copy of this bank statement by close of business on the 26th November 2024, I will have no choice but to approach any or all of the following, i.e. the National Credit Regulator, Financial Services Conduct Authority, Banking Ombud, Prudential Authority, Financial Intelligence Centre, Public Protector, etc. for their assistance.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

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09-7

mbuso.dlamini@palacegroup.co.za

From:	mbuso.dlamini@palacegroup.co.za
Sent:	Monday, 23 March 2026 18:43
To:	'Calvin Kekana'
Cc:	'Gary Oertel'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'mbuso.dlamini@palacegroup.co.za'
Subject:	Rescission Application – Case No. 38401/2018
Attachments:	Case No. 38401-2018 - Notice of Motion Rescission Application_1 - F-s65bw-0i26032316530.pdf; Case No. 38401-2018 - Founding Affidavit Rescission Application_1 - F-s65bw-0i26032316540.pdf; Case No. 38401-2018 - Annexure A Rescission Application_1 - F-s65bw-0i26032316541.pdf; Case No. 38401-2016 - Annexure B Rescission Application_1 - F-s65bw-0i26032316550.pdf; Case No. 38401-2018 - Annexure C Rescission Application - F-s65bw-0i26032316551.pdf; Case No. 38401-2018 - Annexure D Rescission Application - F-s65bw-0i26032316552.pdf; Case No. 38401-2018 - Annexure E Rescission Application_1 - F-s65bw-0i26032316553.pdf; Case No. 38401-2018 - Annexure F Rescission Application_1 - F-s65bw-0i26032316560.pdf

Dear Sirs,

We refer to the above matter.

Kindly find attached the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

The application has been duly filed and uploaded to CaseLines.

The Applicant seeks, inter alia:

- the rescission and setting aside of the 2019 judgment;
- the suspension of enforcement pending determination of this application; and
- the production of the complete underlying transactional records relating to the alleged indebtedness.

Kindly acknowledge receipt hereof.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

mbuso.dlamini@palacegroup.co.za

From:	mbuso.dlamini@palacegroup.co.za
Sent:	Wednesday, 27 May 2026 22:33
To:	'zeenath.kajee@gcwadmin.co.za'
Cc:	'blesese@justice.gov.za'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'greg.carlson@epalvend.com'; 'mbuso.dlamini@palacegroup.co.za'
Subject:	EMD, PEG HR and F1287 Summons Proceedings as well as Rescission Proceedings and Vexatious Proceedings Matter

Dear Sir / Madam,

Please find below the active WeTransfer download link containing the bundled litigation and procedural records relating to the following matters:
• EMD Summons Proceedings (Case No. 2026-110626);
• PEG HR Summons Proceedings (Case No. 2026-110692);
• F1287 Summons Proceedings (Case No. 2026-110701);
• Rescission Proceedings (Case No. 38401/2018); and
• Vexatious Proceedings Matter (Case No. 2026-096591).

The WeTransfer link remains active for 30 days.

DOWNLOAD LINK:
https://wetransfer.com/transfers/sent/46a014694f1510c12636b990ca64a0ad20260527200300

The bundles are transmitted for purposes of:
• administrative completeness;
• trustee and Master awareness;
• procedural transparency;
• preservation of the procedural record; and
• orderly administration following the trustee appointment process.

The transmitted bundles contain the presently relevant pleadings, filings, correspondence, annexures, and procedural documents relating to the above matters.

This transmission is effected without prejudice to any rights, remedies, or contentions in any of the relevant proceedings.

A proof of transmission and/or service notice may be filed via Court Online and/or CaseLines where appropriate.

Kindly acknowledge safe receipt.
Regards,
Ephraim Mbuso Dlamini
In Person

mbuso.dlamini@palacegroup.co.za

From: mbuso.dlamini@palacegroup.co.za
Sent: Sunday, 29 March 2026 20:44
To: 'Calvin Kekana'
Cc: 'Gary Oertel'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'mbuso.dlamini@palacegroup.co.za'
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the rescission application served on you on 23 March 2026, together with the Notice of Motion, Founding Affidavit and Annexures A–F, and subsequently uploaded to CaseLines.

Kindly confirm receipt of the application, if not already done, and advise whether your client intends to oppose.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:58
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear sirs

Attached is the **Proof of Service** of the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:43
To: 'Calvin Kekana' <ckekana@ensafrica.com>

Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the above matter.

Kindly find attached the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

The application has been duly filed and uploaded to CaseLines.

The Applicant seeks, inter alia:

- the rescission and setting aside of the 2019 judgment;
- the suspension of enforcement pending determination of this application; and
- the production of the complete underlying transactional records relating to the alleged indebtedness.

Kindly acknowledge receipt hereof.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

mbuso.dlamini@palacegroup.co.za

From: mbuso.dlamini@palacegroup.co.za
Sent: Monday, 30 March 2026 08:41
To: 'Calvin Kekana'
Cc: 'Gary Oertel'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'
Subject: RE: Rescission Application – Case No. 38401/2018

Subject: Rescission Application – Case No. 38401/2018 | Final Notice

Dear Sirs,

We refer to the Applicant's rescission application served on you on 23 March 2026, and the follow-up correspondence dated 29 March 2026.

The application was served after business hours on 23 March 2026 and is accordingly deemed to have been received on 24 March 2026.

To date, no confirmation of receipt or indication has been received as to whether your client intends to oppose the application.

Kindly take notice that, in the absence of a response within five (5) court days from the date of this email, the Applicant will proceed to enrol the application on the unopposed motion roll and seek appropriate relief, including costs.

This correspondence is sent in the interests of procedural fairness and to afford your client a final opportunity to indicate its position.

Kindly confirm receipt of this email.

Failing which, the Applicant will proceed without further notice.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 21:26
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com'

<jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

Attached is the follow-up email of today, 29.03.2026, which has been filed via Case Lines.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 20:44
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the rescission application served on you on 23 March 2026, together with the Notice of Motion, Founding Affidavit and Annexures A–F, and subsequently uploaded to CaseLines.

Kindly confirm receipt of the application, if not already done, and advise whether your client intends to oppose.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:58
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear sirs

Attached is the **Proof of Service** of the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

Yours faithfully,
E.M. Dlamini

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E.M. Dlamini

mbuso.dlamini@palacegroup.co.za

From: Calvin Kekana <ckekana@ensafrica.com>
Sent: Monday, 30 March 2026 08:44
To: mbuso.dlamini@palacegroup.co.za
Cc: Gary Oertel; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We acknowledge receipt of the application.

Our client will be opposing the application.

Kind regards

Calvin Kekana
Associate
Insolvency, Restructuring and Business Rescue
+27 72 523 9891
+27 11 269 7600
ckekana@ensafrica.com

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Edward Nathan Sonnenbergs Incorporated registration number 2006/018200/21
level 1 B-BBEE rating

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From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: 30 March 2026 08:41 AM
To: Calvin Kekana <ckekana@ensafrica.com>
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com
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Subject: Rescission Application – Case No. 38401/2018 | Final Notice

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The application was served after business hours on 23 March 2026 and is accordingly deemed to have been received on 24 March 2026.

To date, no confirmation of receipt or indication has been received as to whether your client intends to oppose the application.

Kindly take notice that, in the absence of a response within five (5) court days from the date of this email, the Applicant will proceed to enrol the application on the unopposed motion roll and seek appropriate relief, including costs.

This correspondence is sent in the interests of procedural fairness and to afford your client a final opportunity to indicate its position.

Kindly confirm receipt of this email.

Failing which, the Applicant will proceed without further notice.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 21:26
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

Attached is the follow-up email of today, 29.03.2026, which has been filed via Case Lines.

Yours faithfully,
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Kindly confirm receipt of the application, if not already done, and advise whether your client intends to oppose.

We will await your client's answering affidavit in due course.

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Kindly acknowledge receipt hereof.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

CASE NO.: 38401/2018

In the matter between:

EPHRAIM MBUSO DLAMINI Applicant
(Identity number: 5610185771087)

and

FIRSTRAND BANK LIMITED Respondent
(Registration Number: 1929/001225/06)

NOTICE OF INTENTION TO OPPOSE

TAKE NOTICE THAT the Respondent hereby gives its notice of intention to oppose the rescission application filed under the above case number.

TAKE NOTICE FURTHER THAT Respondent has appointed the offices of **EDWARD NATHAN SONNENBERGS INCORPORATED** situated at Tower 1 | The Marc, 129 Rivonia Road, Sandown, Sandton as the address at which it will accept notice and service of all process in these proceedings.

DATED AT **SANDTON** ON THIS THE 8th DAY OF **APRIL 2026**.

EDWARD NATHAN SONNENBERGS INC.
Attorneys for the respondent
Tower 1 | The Marc
129 Rivonia Road
Sandton
Johannesburg
Tel: (011) 269 7600
Fax: (010) 596 6176

Email: ckekana@ensafrica.com
goertel@ensafrica.com
Ref: G Oertel / C Kekana

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

AND TO: **EPHRAIM MBUSO DLAMINI**
Applicant
30 Springhill Road
Riverclub
Sandton
mbuso.dlamini@palacegroup.co.za
mbuso@icon.co.za
Ref: PEG102/25/03/04

mbuso.dlamini@palacegroup.co.za

From: mbuso.dlamini@palacegroup.co.za
Sent: Tuesday, 28 April 2026 21:58
To: 'Calvin Kekana'
Cc: 'Gary Oertel'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'Phila Ramphomane'; 'Cameron van der Walt'; 'mbuso.dlamini@palacegroup.co.za'
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the rescission application served on 23 March 2026.

Despite indicating an intention to defend, no answering affidavit has been delivered to date.

Kindly confirm, by no later than **5 May 2026**, your client's position and the anticipated date for delivery of its answering affidavit.

In the absence of a response within the above timeframe, the Applicant will proceed to take appropriate procedural steps, including enrolling the matter or seeking further directions from the Court.

This communication is sent in order to regularise the position and avoid unnecessary delay.

Yours faithfully,
E.M. Dlamini
Applicant (in person)

From: Calvin Kekana <ckekana@ensafrica.com>
Sent: Wednesday, 08 April 2026 16:30
To: mbuso.dlamini@palacegroup.co.za
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com; Phila Ramphomane <pramphomane@ensafrica.com>; Cameron van der Walt <cvanderwalt@ensafrica.com>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We refer to the above matter.

We hereby serve the respondent's notice of intention to oppose.

Please acknowledge receipt.

Regards

Calvin Kekana
Associate
Insolvency, Restructuring and Business Rescue
+27 72 523 9891
+27 11 269 7600
ckekana@ensafrica.com

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From: Calvin Kekana
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Yours faithfully,
E.M. Dlamini

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

CASE NUMBER: 38401/2018

In the matter between:

EPHRAIM MBUSO DLAMINI	Applicant
(Identity Number: 5610185771087)	
and	
FIRSTRAND BANK LIMITED	Respondent
(Registration Number: 1929/001225/06)	
in re:	
FIRSTRAND BANK LIMITED	Applicant
(Registration Number: 1929/001225/06)	
and	
EPHRAIM MBUSO DLAMINI	Respondent
(Identity Number: 5610185771087)	

ANSWERING AFFIDAVIT

I, the undersigned

JEAN ALBERTUS DU PLESSIS

do herby make oath and state that:

1. I am a major male employed as a credit executive at Rand Merchant Bank, a division

of FirstRand Bank Limited ("**the Bank**"). I am duly authorised to represent the Bank in these proceedings.

2. The facts contained herein fall within my personal knowledge, save where indicated to the contrary and are to the best of my knowledge and belief both true and correct. Where I refer to information conveyed to me by others, I believe such information to be true.

3. Where I make legal submissions, I do so on the advice of the Bank's legal representatives and believe same to be correct.

4. I have read the founding affidavit deposed to by Ephraim Mbuso Dlamini ("**Dlamini**") in support of his application for the rescission of the judgment granted on 22 October 2019 ("**the 2019 Judgment**") and I respond thereto below.

5. In doing so, I propose firstly to raise a number of points in limine, whereafter I shall deal with the founding affidavit on a paragraph-by-paragraph basis to the extent necessary. If I do not deal with any allegation, and if such allegation is inconsistent with what has been set out herein, same is denied.

LACK OF *LOCUS STANDI*

6. At the outset, I draw this Honourable Court's attention to the fact that Dlamini's estate was placed under final sequestration on 13 February 2026 pursuant to the judgment of this Honourable Court under case number 2024-092685. That judgment has not been set aside. A copy of the final sequestration judgment is annexed hereto, marked "**AA1**"

7. I am advised and submit that upon the grant of a final sequestration order, the insolvent's estate vests in the trustee appointed by the Master of the High Court. As

a necessary consequence, an insolvent debtor is divested of his estate and loses the capacity to litigate in his own name in respect of matters affecting the insolvent estate.

8. The 2019 Judgment, which is the subject of this rescission application, constitutes a judgment sounding in money against Dlamini in the amount of R27,612,987.75, together with interest and costs. Any rescission of the 2019 Judgment would directly affect the estate vested in the trustee and the claims of creditors against the insolvent estate. The rescission application therefore concerns a matter that falls squarely within the insolvent estate and is a matter for the trustee, not the insolvent personally.

9. Dlamini has not placed any evidence before this Honourable Court that he has obtained the consent of the trustee of his insolvent estate to bring this application, nor has he obtained an order from a court of competent jurisdiction authorising him to litigate in his own name.

10. The rescission application has been brought by Dlamini in his own name, and he appears self-represented. He has no authority to do so. In the premises, Dlamini lacks the requisite locus standi to bring this application, and the application falls to be dismissed on this ground alone.

11. I pause to record that Dlamini's disregard for the requirements of the Insolvency Act 24 of 1936, as amended ("**Insolvency Act**") is not an isolated occurrence. As I demonstrate more fully below, Dlamini has on multiple occasions instituted proceedings and filed applications without the consent of his trustee or leave of the Court, in flagrant breach of section 23 (6) of the Insolvency Act. This pattern of conduct is relevant not only to the question of *locus standi*, but also to the broader question of whether this application constitutes an abuse of process (which is dealt with below).

12. In particular, I am advised and submit that Dlamini, as an unrehabilitated insolvent, is disqualified from acting as a director in terms of section 69(8)(b)(i) of the Companies Act 71 of 2008, and accordingly lacks the locus standi to bring proceedings or make averments on behalf of any companies of which he is an erstwhile director. The Bank raised this very point in its Rule 30 (2) (b) notice ("**Rule 30 Notice**") filed in the sequestration proceedings on 19 May 2025, and Dlamini did not dispute it. Neither has Dlamini so much as approached his trustee for the requisite consent to launch this rescission application. A copy of the Rule 30 Notice is annexed hereto, marked "**AA2**".

RES JUDICATA

13. The 2019 Judgment was granted by Matojane J on 22 October 2019. In that judgment, the Court found that PEG HR Solutions Proprietary Limited (**"PEG"**) had failed to dispute its indebtedness to the Bank on bona fide and reasonable grounds. The Court further found that the Bank was entitled to enforce its claim under the suretyship agreement against Dlamini.

14. The 2019 Judgment was thereafter confirmed by the Full Bench on 23 June 2021.

15. Dlamini thereafter applied for leave to appeal to the Supreme Court of Appeal, which was refused.

16. Dlamini thereafter applied for leave to appeal to the Constitutional Court, which was also refused.

17. Copies of the orders granted are annexed hereto, marked as "**AA3**" "**AA4**" and "**AA5**" respectively.

18. I am advised and submit that the 2019 Judgment has been confirmed through the

highest courts in the land. The matter has been finally and conclusively determined. The doctrine of res judicata applies and bars Dlamini from seeking to re-open the same issues that were, or could have been, ventilated in the original proceedings and on appeal.

19. In this regard, I draw this Honourable Court's attention to the fact that the central challenge now raised by Dlamini, namely, that the Certificate of Balance was allegedly incorrect and that the Bank's claim was overstated, is the very same challenge that was raised by PEG (and by extension Dlamini as surety) in the 2019 proceedings. In paragraph 5 of his answering affidavit in the original proceedings under case number 38401/2018, Dlamini himself stated that "*the application is based upon the alleged indebtedness of PEG in the amount of R27,612,987.75. The amount is disputed.*" These allegations were considered and rejected by the Court a quo, and confirmed through the Full Bench, the Supreme Court of Appeal, and the Constitutional Court.

20. Dlamini's attempt to characterise his challenge as a "*distinct issue*" that was "*never determined*" is without merit. The quantum of the alleged indebtedness was a central issue in the 2019 proceedings. It was the very foundation of the disputes raised by PEG and Dlamini at that time. The fact that Dlamini now seeks to re-package the same challenge through the lens of a "*forensic reconstruction*" does not create a new issue, it merely repackages the old one.

21. In the premises, the application is barred by *res judicata* and falls to be dismissed on this ground.

THE ALLEGED "NEW FACTS" WERE AVAILABLE UPON DISCOVERY

22. Dlamini alleges in his founding affidavit that the irregularities underlying his rescission

application "*were not reasonably discoverable*" at the time of the original proceedings. This allegation is contradicted by the very documents upon which Dlamini relies.

23. In paragraph 29 of the founding affidavit, Dlamini concedes that "*the reconstruction now presented is derived substantially from the Plaintiff's own payment records disclosed in the Court a quo bundle.*" This is a fatal concession. If the reconstruction is derived from records that were already before the Court a quo, the so-called "*new facts*" were not in fact new. They were available to Dlamini at the time of the original proceedings and could have been raised then.

24. Furthermore, the Court a quo recorded in its judgment at paragraph [17] that PEG had delivered a Rule 35(12) and (14) notice on 26 October 2018 seeking, inter alia, proof of payment of rates and taxes in the amount of R14 million, proof of payment making up the total capital drawn in an amount of R46.8 million, and invoices for legal fees. The Bank responded to that notice by providing the documents sought.

25. Critically, PEG was thereafter afforded until close of business on 19 November 2018 to supplement its answering affidavit. PEG elected not to do so. As the Court a quo expressly found at paragraph [18] of the 2019 Judgment: "*PEG did not file a supplementary affidavit, nor did it challenge the applicant's reconciliation of payments and receipts.*"

26. Dlamini (through PEG) had the documents, had the opportunity, and made a deliberate choice not to challenge the reconciliation. Having made that election, Dlamini cannot now, some seven years later, seek to revisit that choice under the guise of a rescission application based on "*new facts*".

27. I am advised and submit that where a party had access to the information upon which it now relies and elected not to place that information before the court, a rescission

application based on the alleged absence of those facts cannot succeed. The prejudice, if any, was self-inflicted.

ABUSE OF PROCESS

28. The present application constitutes a manifest abuse of the process of this Honourable Court. It forms part of a sustained and well-documented pattern of vexatious and abusive litigation by Dlamini against the Bank, which I set out more fully below.

29. Dlamini has exhausted every available appellate remedy. As already mentioned, he has taken the 2019 Judgment on appeal to the Full Bench, the Supreme Court of Appeal, and the Constitutional Court. At every level, relief was refused.

30. Having failed through the ordinary appellate process, Dlamini now seeks to achieve through a rescission application what the appellate courts declined to grant. This is precisely the type of conduct that constitutes an abuse of process; the use of court procedures for a purpose other than that for which they were designed.

31. The abuse is further compounded by the timing of the application. Dlamini's founding affidavit records that this application is brought "*independently of, and without prejudice to, the pending leave to appeal proceedings in respect of the sequestration order.*" The rescission application was launched on 23 March 2026, barely five weeks after the final sequestration order of 13 February 2026 and suspiciously soon after leave to appeal was denied. The clear inference is that the application is a further attempt by Dlamini to frustrate the Bank's lawful enforcement of its rights and to delay the administration of the insolvent estate.

32. The multiplication of proceedings in circumstances where all appellate avenues have been exhausted, and where the debtor has been finally sequestrated, constitutes an abuse of process of the most egregious kind.

33. In order to appreciate the abusive nature of this rescission application, it is necessary to consider Dlamini's broader conduct in his litigation with the Bank. What follows is a summary of the salient events, insofar as they bear directly on this application.

34. On 20 August 2024, the Bank issued a sequestration application against Dlamini, having been unable to serve a warrant of execution on him since 2019, notwithstanding numerous attempts at settlement. On 5 December 2024, the Honourable Acting Judge Mnisi placed Dlamini's estate under provisional sequestration, returnable on 4 February 2025. By agreement, the return date was extended to 2 June 2025 for argument.

35. In the period leading up to the return date, Dlamini inundated the Bank and the Court with no fewer than ten separate affidavits, applications and notices. These included multiple amended answering affidavits (filed without condonation or leave of the Court), discovery notices and a notice to compel (filed irregularly in the absence of a Rule 35(13) direction), counterclaims brought on behalf of companies over which Dlamini, as an unrehabilitated insolvent, had no standing, a payment application seeking to set aside the liquidation of PEG (which was not a party to the sequestration), a notice of intention to appeal the provisional order (which is not competent in terms of section 150(1) of the Insolvency Act), and two rescission applications. The Court record swelled to in excess of 5,000 pages.

36. On 19 May 2025, the Bank filed the Rule 30 Notice seeking to set aside Dlamini's documents as irregular and an abuse of process. This did nothing to stem the tide. The very next day, Dlamini filed yet another supplementary affidavit. On the eve of

argument, 1 June 2025, he filed a recusal application against Acting Justice Fine ("**Fine AJ**"), who was due to preside the following day. Fine AJ voluntarily recused himself and extended the *rule nisi* to 28 July 2025. Immediately thereafter, Dlamini filed an application to set aside that extension order. He then filed further discovery affidavits and a further notice of counterclaim on 16 June 2025, and yet another affidavit on 27 June 2025.

37. The sequestration was ultimately argued over two days, on 28 and 29 July 2025, before the Honourable Wanless J ("**Wanless J**") as per AA1. On 13 February 2026, Wanless J placed Dlamini's estate in final sequestration. In that judgment, Wanless J made the following findings which are of direct relevance to this rescission application:

> *"[Dlamini's] attempt to re-litigate the validity or quantum of the underlying debt is impermissible. The 2019 Judgment is final. The issues [Dlamini] seeks to raise regarding the calculation of the debt, the alleged 'missing' R20 million and the events leading to the 2019 judgment, have been conclusively determined by a court of competent jurisdiction. They are themselves res judicata. To allow them to be once again addressed in these sequestration proceedings, would be an abuse of process."*
>
> *"[Dlamini's] sweeping and serious allegations of fraud, forgery and abuse of process against the [Bank] and its attorneys are entirely unsubstantiated by any admissible evidence. As such, they amount to baseless and vexatious allegations."*
>
> *"[Dlamini's] points in limine regarding discovery are opportunistic and irrelevant to the real issues for determination in this sequestration application based on a final judgment. They do not create a bona fide dispute of fact*

regarding the [Bank's] claim or [Dlamini's] insolvency."

38. I draw this Honourable Court's attention to the remarkable parallels between the allegations made in the present rescission application and those which Wanless J found to be *res judicata*, baseless, vexatious and amounting to an abuse of process. The present application seeks to re-litigate the very same issues regarding the quantum of the Bank's claim and the Certificate of Balance which have already been conclusively determined and found to be without merit.

39. On 20 February 2026, Dlamini applied for leave to appeal the Wanless J Judgment. On 27 March 2026, Wanless J dismissed that application with a punitive cost order. A copy of the leave to appeal judgment is annexed hereto, marked "**AA6**". Wanless J once again held that "*[Dlamini's] attempt to re-litigate the validity and enforceability of the underlying debt is fundamentally misconceived. The 2019 Judgment is a final and binding judgment of this Court. All applications for leave to appeal against that judgment were refused, including by the SCA and the Constitutional Court."*

40. Wanless J further found at paragraphs 30 and 32 of the leave to appeal judgment:

> *"This application must be seen against the backdrop of [Dlamini's] protracted litigation against [the Bank], which has delayed the final sequestration of his estate for approximately six years. As [the Bank] correctly submits, [Dlamini] has even sought to appeal the provisional sequestration order, which, in terms of section 150(1) of the Insolvency Act, is not competent. This pattern of litigation suggests an abuse of process rather than a genuine pursuit of legally cognisable rights."*
>
> And further: *"The application lacks merit and forms part of a pattern of litigation aimed at delaying the final sequestration of his estate. In these circumstances,*

a punitive costs order is warranted."

41. This Honourable Court has accordingly, on at least two occasions, already concluded that Dlamini's barrage of applications, notices and affidavits filed in litigation with the Bank amount to an abuse of process, are vexatious and without merit. This, however, did not deter Dlamini. On 1 April 2026, Dlamini served an unissued petition to the Supreme Court of Appeal for leave to appeal his final sequestration.

42. On 7 March 2025, whilst simultaneously filing his barrage in the sequestration, Dlamini launched a further application against the Bank claiming, *inter alia*, R158,807,067.14 and R89,522,991,230.96, amounts which, on their face, are fantastical. The claims therein are a rehash of the same allegations that have repeatedly been found to be without merit. The Bank called upon Dlamini to furnish security for costs under Rule 47 (1) on the grounds that the application was patently vexatious, *res judicata*, and brought by an unrehabilitated insolvent without standing. No security was furnished. No replying affidavit has been filed to date. The Bank was nonetheless compelled to file an answering affidavit and to report the claim to its auditors for regulatory purposes, at considerable cost and disruption.

43. In the premises, the Bank submits that Dlamini's sustained and escalating pattern of meritless litigation has left the Bank with no alternative but to seek the interposition of this Honourable Court. The Bank reserves its rights to seek relief in terms of the Vexatious Proceedings Act, 3 of 1956, in due course.

44. Dlamini's conduct has caused the Bank significant prejudice. The Bank has been mulcted in wasted time and legal costs and has been exposed to unwarranted reputational risks. This Honourable Court has, on at least two occasions, expressly found that Dlamini's litigation conduct is vexatious and amounts to an abuse of process. Notwithstanding these findings, and notwithstanding that the High Court, the

Supreme Court of Appeal and the Constitutional Court have all declined to grant Dlamini relief, he persists. This rescission application is the latest manifestation of that pattern.

45. To conclude on this point it bares to mention the following:

45.1. The 2019 Judgment was granted on 22 October 2019. The rescission application was launched only on 23 March 2026, a delay of approximately six years and five months.

45.2. Even on Dlamini's own version, he alleges that he commissioned a forensic review "during 2023" and that the alleged irregularities were identified at that time. The correspondence in Annexure "E" to his founding affidavit reflects engagement between the parties' legal representatives during August to September 2023.

45.3. Notwithstanding the alleged discovery of the irregularities during 2023 (which are denied), the rescission application was only launched on 23 March 2026, a further delay of approximately two and a half to three years after the alleged discovery.

45.4. Dlamini states in conclusory terms that "*the delay is reasonable in the circumstances and does not constitute acquiescence in the judgment*." No adequate explanation is provided for this further delay. The assertion is bare and unsubstantiated.

45.5. I am advised and submit that a party seeking rescission is required to act with reasonable promptness. A delay of more than six years from the date of the judgment, and more than two years from the alleged date of discovery of the purported irregularities, is manifestly unreasonable and is indicative of

"*acquiescence*" in the judgment.

46. In the premises, the application falls to be dismissed on the ground of unreasonable delay

COMMON LAW RESCISSION

47. Dlamini relies alternatively on common-law rescission based on "*material misrepresentation and/or fraud.*" However, the essential elements of fraud, and in particular the element of intentional misrepresentation, have not been alleged, let alone established.

48. Dlamini alleges that the Certificate of Balance "*constituted a material representation to the Court regarding the quantum of indebtedness*" and that "*if the certificate materially misstated the lawful indebtedness, such misstatement was material to the granting of judgment.*" These allegations are couched in speculative and conditional terms. The word "*if*" is not a sufficient foundation for an allegation of fraud or misrepresentation.

49. A certificate of balance that is alleged to be arithmetically incorrect (which is denied) does not, without more, constitute fraud or material misrepresentation. To establish fraud, Dlamini would need to allege and prove that the Bank knowingly and intentionally presented a false certificate to the Court with the intention of misleading the Court. No such allegation is made in the founding affidavit.

50. I am advised and submit that in the absence of a clear and unequivocal allegation of intentional misrepresentation, the common-law ground of rescission based on fraud or misrepresentation is not available to Dlamini. The founding affidavit does not

satisfy the requirements for common-law rescission and this ground falls to be dismissed.

51. The present rescission application is accordingly the latest instalment in Dlamini's protracted campaign to frustrate the Bank's lawful enforcement of a final judgment and to delay the administration of his insolvent estate. It bears all the hallmarks of Dlamini's established pattern of vexatious and abusive litigation: it seeks to re-litigate issues that have been finally determined; it is brought without the consent of his trustee; it is launched several years after the alleged discovery of the purported irregularities; and it is founded on allegations that are speculative, conditional and devoid of the requisite particularity.

52. I respectfully submit that Dlamini has developed an unhealthy obsession with denying his indebtedness and obligations to the Bank, which have ultimately led to his sequestration. Dlamini should not be allowed to continue to clog the courts with his unfounded, meritless and spurious allegations, nor should the Bank and the administration of Dlamini's insolvent estate continue to be held hostage by his vexatious litigation conduct.

53. This behaviour has had the effect of frustrating not only the Bank in its pursuit of justice, but also Dlamini's provisional trustee, Ms Zeenath Kajee, in the fulfilment of her statutory duties to administer Dlamini's sequestrated estate for the benefit of his creditors.

CONCLUSIONARY POINTS

54. In the premises, and for all the reasons set out above, I respectfully submit that:

54.1. Dlamini lacks the requisite *locus standi* to bring this application in his own name as an unrehabilitated insolvent whose estate is under final

sequestration;

54.2. the application is barred by the doctrine of *res judicata*, having been conclusively determined through all levels of appeal;

54.3. the so-called "*new facts*" relied upon by Dlamini were available to him at the time of the original proceedings and were not placed before the Court as a result of a deliberate forensic choice;

54.4. the application constitutes a manifest abuse of the process of this Honourable Court and forms part of Dlamini's established pattern of vexatious and abusive litigation, as has been found by this Honourable Court on at least two prior occasions;

54.5. the application has been brought after an unreasonable delay of more than six years; and

54.6. the common-law ground of rescission based on fraud or misrepresentation has not been properly pleaded and does not meet the requirements for such relief.

55. I accordingly pray that this Honourable Court dismiss the rescission application with costs on the attorney and client scale, such cost order being warranted in light of the vexatious nature of the application and Dlamini's established pattern of abusive litigation.

AD SERIATIM

56. I now turn to deal with the founding affidavit on a *ad seriatim* basis, to the extent necessary. Where I do not deal with a specific allegation, and where such allegation is inconsistent with what has been set out herein, same is denied.

AD PARAGRAPHS 1 TO 3

57. The contents hereof are noted. I admit that the 2019 Judgment was granted on 22 October 2019 and that Dlamini's estate was placed under final sequestration on 13 February 2026. I deny, however, that Dlamini has the *locus standi* to bring this application, for the reasons set out above under the paragraphs 6 to **Error! Reference source not found.** above.

AD PARAGRAPH 4:

58. The contents of this paragraph are denied. I refer to what is stated above under paragraph 28 to 46, the contents of which are specifically incorporated herein.

AD PARAGRAPH 5

59. The assertion that Dlamini "*does not seek to relitigate matters previously determined*" is denied. The substance of this application is a challenge to the quantum of the Bank's claim, which is precisely the issue that was raised, considered and rejected in the 2019 proceedings and confirmed on appeal.

AD PARAGRAPH 6

60. The legal bases upon which rescission is sought are denied. For the reasons set out above, none of these bases are available to Dlamini. In particular, the Rule 42(1)(a) ground fails because the so-called "*new facts*" were available at the time of the original proceedings; the common-law ground fails because fraud has not been properly pleaded; and the section 173 ground is not a standalone basis for rescission where the other requirements are not met.

AD PARAGRAPHS 7 TO 13

61. The contents of these paragraphs are admitted.

AD PARAGRAPHS 14 TO 22

62. The contents hereof are noted. Dlamini's characterisation of the procedural history is largely uncontroversial, the matter was indeed determined on affidavit in motion proceedings. However, the suggestion that the absence of oral evidence, witnesses or cross-examination somehow renders the judgment vulnerable to rescission is misconceived. The 2019 proceedings were conducted in accordance with the applicable rules pertaining to motion proceedings. The absence of a trial does not create a basis for rescission. The suggestion at paragraph 22 of the rescission application that the "*integrity and enforceability of the foundation debt*" is in question is denied. That very issue has been conclusively determined.

AD PARAGRAPHS 23 TO 25

63. The allegation that Dlamini commissioned a "*forensic review*" during 2023 is noted but not admitted. The Bank has no knowledge of the nature, scope or methodology of this purported review, nor of the qualifications of those who conducted it. No independent forensic report by a suitably qualified expert has been placed before this Honourable Court. The "*reconciliation summary*" at Annexure "C" appears to be Dlamini's own reconstruction and carries no independent evidentiary weight.

AD PARAGRAPHS 26 TO 29

64. The contents of these paragraphs are denied. I refer to paragraphs 22 to 27 which are incorporated herein as response.

AD PARAGRAPHS 30 TO 40

65. The contents of these paragraphs are noted., however, the Bank denies that the delay

is reasonable.

66. The correspondence at Annexure "E" reflects engagement between August and September 2023, yet the application was only launched on 23 March 2026, a further delay of approximately two and a half years. No adequate explanation for this further delay has been provided.

67. The assertion at paragraph 40 that "*the delay is reasonable*" is bare and conclusory.

AD PARAGRAPHS 41 TO 48

68. The contents of these paragraphs are denied. The certificate of balance was issued in the ordinary course by a duly authorised representative of the Bank and constituted prima facie proof of the indebtedness. The allegations that the certificate "*did not disclose*" various items (paragraphs 46.1 to 46.4) are misconceived, a certificate of balance is not required to annex the full transactional history of a loan account. The allegation at paragraph 48 that the judgment was granted on a "*mistaken factual premise*" is denied. The Court a quo had the Bank's reconciliation before it, and PEG elected not to challenge it.

AD PARAGRAPHS 49 TO 64

69. The contents of these paragraphs are denied.

70. These are the very allegations that were raised, in substance, in the 2019 proceedings and in the sequestration proceedings. They have been found to be without merit on each occasion. Wanless J (as per annexure AA1) expressly found that Dlamini's "*attempt to re-litigate the validity or quantum of the underlying debt is impermissible*" and that the issues are "*res judicata*". The Bank denies that the indebtedness was extinguished.

71. The Bank further denies the correctness of the "*reconstruction*" at Annexures "C" and "D", which appears to have been prepared by Dlamini himself without independent expert verification.

AD PARAGRAPHS 65 TO 68

72. The contents of these paragraphs are denied.

73. To the extent that Dlamini now seeks to rely on the in *duplum rule*, this is a defence which was available to him in the 2019 proceedings and which he elected not to raise. In any event, and with respect, it is clear through basic arthrometric, that *in duplum* was not reached at the time of Dlamini's estate being placed in sequestration or at the time that the 2019 Judgment was granted.

74. It cannot now form the basis of a rescission application. In any event, the allegations are speculative and unsubstantiated by any independent expert evidence.

AD PARAGRAPHS 69 TO 75

75. The contents of these paragraphs are denied.

76. The 2019 Judgment was not "*erroneously granted*". The Court a quo had the Bank's reconciliation and Certificate of Balance before it.

77. PEG was afforded an opportunity to challenge the reconciliation and declined to do so. The so-called "*material facts*" which Dlamini alleges were absent from the Court were in truth available to him at the time.

78. This is not a case in which Rule 42(1)(a) can be invoked. The assertion at paragraph 75 that the "*doctrine of finality or issue estoppel does not arise*" is rejected, as it manifestly does for the reasons set out in paragraph 6 to **Error! Reference source**

not found. above which are incorporated herein.

AD PARAGRAPHS 76 TO 80

79. The common law rescission ground based on misrepresentation and/or fraud is denied. I refer to what is stated above under paragraph 47 to 53 which is incorporated herein as response.

AD PARAGRAPHS 81 TO 88

80. The contents of these paragraphs are denied.

AD PARAGRAPHS 89 TO 91

81. The contents of these paragraphs are denied. The interests of justice are served by the principle of finality. The 2019 Judgment has been tested through every available appellate mechanism. To permit Dlamini to relitigate the same issues seven years later, on the basis of a self-serving reconstruction derived from records that were available to him at the time, would undermine the principle of finality and constitute an injustice to the Bank.

AD PARAGRAPHS 92 TO 95

82. The application for suspension of enforcement is opposed. Dlamini has not established a *prima facie* right to rescission, nor has he established that he will suffer irreparable harm if enforcement is not suspended. In contrast, the Bank and Dlamini's creditors will suffer ongoing prejudice if the administration of the insolvent estate continues to be frustrated by Dlamini's vexatious litigation. Dlamini's estate is under final sequestration and the Bank is entitled to enforce its rights.

AD PARAGRAPH 96:

83. The content of this paragraph is denied. The Bank submits that the application must be dismissed.

WHEREFORE the Bank prays that the rescission application be dismissed with costs.

JEAN ALBERTUS DU PLESSIS

I certify that:

I. the Deponent acknowledged to me that :
   A. he knows and understands the contents of this declaration;
   B. he has no objection to taking the prescribed oath;
   C. he considers the prescribed oath to be binding on his conscience.

II. the Deponent thereafter uttered the words, "I swear that the contents of this declaration are true, so help me God".

III. the Deponent signed this declaration in my presence at the address set out hereunder on 28 **APRIL 2026**.

COMMISSIONER OF OATHS

Designation and Area:
Full Names:
Street Address:

SIYABONGA NYEZI
Nedbank Limited
135 Rivonia Road, Sandown 2196
Commissioner of Oaths
Ex Officio / Admitted Attorney R.S.A.

REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Case Number: 2024-092685

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES

13 February 2026
DATE SIGNATURE

In the matter between:

FIRSTRAND BANK LIMITED Applicant
(Registration Number: 1929/001225/06)

and

EPHRAIM MBUSO DLAMINI Respondent
Identity Number: 561018 5771 087
Address: 30 Springhill Road, Riverclub, Sandton
Marital status: unmarried

JUDGMENT

WANLESS J

Introduction

[1] This is an application in terms of section 12 of the Insolvency Act 24 of 1936 *("the Act")* for a final order sequestrating the estate of the Respondent. The application is opposed. FirstRand Bank Limited *("the Applicant")* is a judgment creditor of Ephraim Mbuso Dlamini *("the Respondent")* for a sum, with interest, now exceeding R 48 million. A provisional order of sequestration was granted by this Court on 5 December 2024 and, from time to time, extended to the 27th of February 2026. The Respondent has filed opposing papers and seeks, in addition to the dismissal of the application, leave to prosecute a counterclaim.

Background

[2] The factual and procedural background in this matter is largely uncontroversial. On 22 October 2019, judgment was granted against the Respondent in favour of the Applicant for a capital sum of approximately R 27.6 million *("the 2019 Judgment")*. All subsequent applications for leave to appeal against that judgment, including to the Supreme Court of Appeal and the Constitutional Court, were refused. The judgment is therefore final and binding.

[3] Relying on the 2019 Judgment and a *nulla bona* return of a writ of execution the Applicant instituted this sequestration application in August 2024. The Respondent's estate was provisionally sequestrated on 5 December 2024. Thereafter, the Respondent filed an answering affidavit on the eve of the initial return day, leading to an extension of the *rule nisi*. The Applicant filed a replying affidavit. Thereafter, the Respondent filed an *(irregular)* "amended answering affidavit", in response to which the Applicant filed a "supplementary replying affidavit".

[4] The Master of the High Court has filed a report in terms of the Act, confirming service and publication of the provisional order and noting that no claims have been received. The report raises no objection to the granting of a final order. All procedural requirements under the Act have been properly complied with by the Applicant. This is not an issue between the parties in this application.

The facts

[5] The facts which are either common cause or cannot be seriously disputed by either of the parties, are the following, namely:

5.1. the Applicant holds a final and binding judgment against the Respondent in terms of the 2019 Judgment;

5.2. a writ of execution issued in respect of that judgment was returned by the Sheriff, *nulla bona;*

5.3. the Respondent's indebtedness to the Applicant, as evidenced by a certificate of balance dated 13 August 2024, is approximately R 48 million;

5.4. the Respondent's estate was placed under provisional sequestration on 5 December 2024;

5.5. the formalities regarding service of the provisional order and publication have been complied with;

5.6. The Respondent is an active businessperson with various business interests.

Issues

[6] The issues for determination are:

6.1. whether the Applicant has met the requirements for a final sequestration order as set out in subsection 12(1) of the Act, namely:

(a) a claim entitling it to apply for sequestration;

(b) proof that the Respondent has committed an act of insolvency or is insolvent; and

(c) that there is reason to believe that sequestration of the Respondent's estate will be to the advantage of his creditors.

6.2. whether the Respondent's defences, including allegations of fraud, *res judicata* and the *in duplum* rule, preclude the granting of the order;

6.3. whether the Respondent should be granted leave to prosecute a counterclaim within these proceedings.

Application of the law to the facts

[7] When this Court applies the correct principles of law to the facts of this matter, it is clear that the Applicant has satisfied the requirements for the final sequestration of the Respondent's estate, as provided for in the Act. In this regard:

7.1. The 2019 Judgment constitutes conclusive proof of a liquidated claim well in excess of the minimum threshold required by subsection 9(1) of the Act. The Applicant is clearly a creditor with the necessary *locus standi* to institute this application.

7.2. The *nulla bona* return constitutes an act of insolvency in terms of subsection 8(b) of the Act. Furthermore, on the Applicant's evidence, which stands uncontroverted on this core point, the Respondent is factually insolvent. The Applicant's schedule indicates liabilities of approximately R 50 million against assets of approximately R 37.5 million, leaving a deficit of at least R 12 million. In opposition thereto, the Respondent's answering affidavits fail to provide any credible, substantiated evidence of solvency. In this regard, the Respondent's vague references to assets owned by a third-party company, in liquidation, do not assist him.

7.3. It is fairly trite that the test for whether or not there will be an advantage to creditors if the estate of the Respondent is finally sequestrated, is whether there is reason to *believe* (*not* a certainty) that *some* benefit will accrue to creditors. The Respondent is a person of apparent business means with diverse interests.

A trustee would be empowered to investigate these interests and the Respondent's financial affairs which. in itself, constitutes an advantage. Furthermore, the equity in the Respondent's immovable properties, exceeding secured claims by approximately R 4 million, offers the prospect of a reasonable dividend for concurrent creditors. This satisfies the requirement.

The Respondent's defences

[8] For the reasons set out hereunder the Respondent's defences are without merit and are not a bar to the final sequestration of his estate.

8.1. As to the Respondent's defence of *res judicata* / issue estoppel, the Respondent's attempt to re-litigate the validity or quantum of the underlying debt is impermissible. The 2019 Judgment is final. The issues he seeks to raise regarding the calculation of the debt; the alleged *"missing"* R 20 million and the events leading to the 2019 judgment, have been conclusively determined by a court of competent jurisdiction. They are themselves *res judicata*. To allow them to be once again addressed in these sequestration proceedings, would be an abuse of process.

8.2. The Respondent's sweeping and serious allegations of fraud, forgery and abuse of process against the Applicant and its attorneys are entirely unsubstantiated by any admissible evidence. As such, they amount to baseless and vexatious allegations. These allegations cannot affect the conclusive effect of the 2019 judgment which forms the foundation of this application *(and the basis of the Applicant's case)*.

8.3. The Respondent's complaint that interest has reached the *in duplum* limit is misconceived. The *in duplum* rule applies to pre-judgment interest. Once a judgment is granted, interest prescribed by that judgment runs afresh. The Applicant's certificate of balance demonstrates that post-judgment interest has not exceeded the capital sum of the judgment debt. In any event, even if it had, the Applicant's claim against the Respondent far exceeds the required amount in terms of the Act.

8.4. The Respondent's points *in limine* regarding discovery are opportunistic and irrelevant to the real issues for determination in this sequestration application based on a final judgment. They do not create a *bona fide* dispute of fact regarding the Applicant's claim or the Respondent's insolvency.

The Respondent's alleged counterclaim

[9] The Respondent's attempt to introduce a substantial counterclaim for damages (some R 63 million) and to seek leave to prosecute such counterclaim under the same case number, has been misconstrued by the Respondent. Sequestration proceedings are summary in nature, designed to determine the creditor's claim and the debtor's insolvency. They are not the appropriate forum for the trial of intricate issues of, *inter alia*, fraud and damages. The Respondent's remedy, if he has one, is to pursue a separate action. The interests of justice do not favour burdening this application for the final sequestration of the Respondent's estate with what would effectively be a *"trial within a trial"*. In the premises, the application by the Respondent for leave to prosecute a counterclaim in these proceedings must be refused.

Conclusion

[10] The Applicant has established a valid claim; an act of insolvency; the Respondent's factual insolvency and reason to believe that the final sequestration of the Respondent's estate will be to the advantage of his creditors. The Respondent's defences are unsustainable. There is no basis to refuse the final order.

Order

[11] This Court makes the following order:

1. The *rule nisi* granted on 5 December 2024 is confirmed.

2. The estate of the Respondent, EPHRAIM MBUSO DLAMINI (Identity Number: 561018 5771 087), is placed under final sequestration.

3. The Respondent's application for leave to institute a counterclaim under case number 2024-092685, is dismissed.

4. The costs of the application (including the application referred to in paragraph 3 hereof) shall be costs in the sequestration.

BC WANLESS
JUDGE OF THE HIGH COURT
JOHANNESBURG

Date of Hearing: 29 July 2025

Date of Judgment: 13 February 2026

Appearances

On behalf of the Applicant: Adv. M De Oliveira

Instructed by: Edward Nathan Sonnenbergs Inc.

Email: ckekana@ensafrica.com ; goertel@ensafrica.com

On behalf of the Respondent: In person

Email: mbuso.dlamini@palacegroup.co.za

"AA2"

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

CASE NO.: 2024-092685

In the matter between:

FIRSTRAND BANK LIMITED Applicant

(Registration Number: 1929/001225/06)

and

EPHRAIM MBUSO DLAMINI Respondent

DATE OF BIRTH: 18 OCTOBER 1956

IDENTITY NUMBER: 5610185771087

RESIDENTIAL ADDRESS:

30 SPRINGHILL ROAD

RIVERCLUB

SANDTON

MARITAL STATUS: UNMARRIED

APPLICANT'S NOTICE IN TERMS OF RULE 30(2)(b)

TAKE NOTICE THAT that the following notices and proceedings constitute an irregular step and fall to be set aside:

1. Notice of intention to appeal, dated 20 February 2025 ("**Appeal Notice**").
2. Amended Answering Affidavit, dated 20 February 2025 ("**Answering Affidavit 1**").
3. Further Amended Answering Affidavit, dated 11 March 2025 ("**Answering Affidavit 2**").
4. Discovery Notice, dated 07 April 2025 ("**Discovery Notice**").
5. Notice of counterclaim, dated 11 April 2025 ("**Counterclaim**").
6. Further answering affidavit and counterclaim, dated 21 April 2025 ("**Answering Affidavit 3**").
7. Rescission Application, dated 21 April 2025 (**"Rescission**").
8. Payment application, dated 22 April 2025 ("**Payment Application**").
9. Notice to compel discovery, dated 28 April 2025 .("**Notice to Compel**").
10. Rescission application, dated 28 April 2025 ("**Rescission Application**").

(collectively referred to as the "**Documents**")

TAKE NOTICE FURTHER THAT the grounds upon which the Documents fall to be set aside are as follows:

1. The respondent has not sought condonation for the late filing of his further answering affidavit, nor has the respondent sought the leave of the above Honourable Court to file his three (3) further answering affidavits (which the respondent only filed after receiving the applicant's replying affidavit). The allegations made in the further answering affidavit have been dealt with, at length, in the applicant's replying affidavits.

2. In terms of section 150(1) of the Insolvency Act, 24 of 1936, a provisional sequestration order is not appealable. Notwithstanding this legal position, the respondent has opted to file the Appeal Notice.

3. It is trite that the respondent is not entitled to discovery in motion proceedings in the absence of a direction from the Court in terms of Rule 35(13). Accordingly, the Discovery Notice and subsequent Notice to Compel are irregular.

4. In the Counterclaim, the respondent purports to have filed the Counterclaim on behalf of PEG HR Solutions Proprietary Limited (in liquidation) ("**PEG**") (a company which has been placed under liquidation) and Friedshelf 1287 (RF) (Pty) Ltd. The respondent as an unrehabilitated insolvent is disqualified from acting as a director in terms of section 69(8)(b)(i) of the Insolvency Act, 71 of 2008. Accordingly, the respondent does not have the necessary *locus standi* to bring proceedings or make any averments on behalf of any companies of which he is an erstwhile director. Moreover, the respondent has not adduced evidence to show that he sought the express consent of his provisional trustee to bring the Counterclaim and potentially

incur further costs for his insolvent estate, nor has the respondent adduced evidence to prove that his insolvent estate has sufficient funds to fund litigation of said nature.

5. In the Payment Application, the respondent seeks an order *inter alia* setting aside the liquidation pertaining to PEG, including an order for payment of alleged damages in the name of PEG notwithstanding that PEG is not a party to these proceedings and was placed under winding up under case number 34779/2018.

6. The Documents, aside from being irregular, constitute an abuse of process and are dilatory in nature.

7. The respondent is self-evidently prejudiced in continuously having to deal with vexatious and ill-conceived notices / process, which also amount to an abuse of court process and in circumstances where the applicant is an unrehabilitated insovent.

TAKE NOTICE that the respondent is afforded **ten (10) days** to remove the causes of complaint (by withdrawing the Documents), failing which the applicant will make application for the setting aside of the notice.

Dated at **SANDTON** on this the 19th day of **MAY** 2025.

EDWARD NATHAN SONNENBERGS INC.
Attorneys for the applicant
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Ref: G Oertel / C Kekana

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

AND TO: **EPHRAIM MBUSO DLAMINI**
Respondent
30 Springhill Road
Riverclub
Sandton
mbuso.dlamini@palacegroup.co.za
mbuso@icon.co.za
Ref: PEG102/25/03/04

E1
"AA3"

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 41440/18

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED:
DATE: 22 JUNE 2021

In the matter between:

PEG HR SOLUTIONS (PTY) LTD	Appellant (Respondent in the matter under GJ Case No. 34779/2018)
And	
EPHRAIM MBUSO DLAMINI	Appellant (Respondent in the matter under GJ Case No. 38401/2018)
And	
FIRST RAND BANK LIMITED	Respondent

E1

E2

(REGISTRATION NUMBER: 1929/001225/06) (Applicant in the matters under (GJ case numbers 34779/2018 and 38401/2018)

JUDGEMENT

MOTHA AJ (Kathree-Setiloane J and Malindi J concurring)

1. This is an appeal against the judgment and orders of the court *a quo* (Matojane J), dated 25 October 2019, in two applications. In the first application, under case number 34779/2018, the Court *a quo* ordered the final winding up of the Appellant, PEG HR Solutions (Pty) Ltd ("PEG") ("winding-up application"), and in the second, under case number 38401/2018, it ordered the Appellant, Mr Ephraim Mbuso Dlamini ("Mr Dlamini") to make payment in the sum of R27, 612, 987.75 to the Respondent, FirstRand Bank (Pty) Ltd ("FirstRand") ("suretyship application").

2. On July 2020 leave to appeal was granted by the court *a quo* to a Full Court of this Division.

3. In the winding-up application, FirstRand Bank sought the final winding-up of PEG on the grounds that it was unable to pay its debts as and when they fell due, as contemplated by section 344(f) of the Companies Act, 61 of 1973 (" Old Companies Act"). In the suretyship application, it sought payment from Mr Dlamini in the sum of R27, 612, 987.75, together with

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interest and costs on an attorney and client scale. The cause of action against Mr Dlamini was a written deed of suretyship in terms of which Mr Dlamini bound himself, jointly and severally, as surety and co-principal debtor to PEG's debts in favour of FirstRand arising out of a loan facility.

4. The court a quo disposed of both applications in one judgement as a result of the interrelated nature. Correctly so, it did not consolidate the two applications as it is not competent in law to consolidate a winding-up application with a suretyship application. I will also deal with the appeals in the same manner as well.

5. **Background**

The facts in both appeals are the same and largely common cause. FirstRand and PEG concluded a loan agreement on 2 September 2008 in terms of which FirstRand approved a loan facility in favour of PEG for R64, 700, 000.00 ("loan agreement"). Between 2008 and 2014 the parties concluded numerous addenda to the loan agreement: October 2008, 2011, 2012 and 2013.

6. PEG signed an acknowledgement of debt on 6 June 2014, acknowledging that it had failed to meet its obligations to FirstRand in terms of the loan agreement, and that it was indebted to it, as at 19 May 2015, in the amount of R56, 318, 835.00 plus interest. It undertook to effect payment of the acknowledgement on certain terms, and agreed to settle it by no later than 30 November 2015.

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7. In line with PEG's undertaking to settle the debt by 30 November 2015, on 9 December 2014, the parties amended the acknowledgment of debt and loan agreement by providing that the repayment period will expire on 30 November 2015.

8. On 25 August 2015, FirstRand wrote a letter to PEG granting it an extension to make payment in the amount of R20 million as part settlement by 31 August 2015 in reduction of the loan facility. It made it clear in the letter that no further non-performance would be condoned and that in the event that PEG failed to pay the part settlement on 31 August 2015, FirstRand will, without any further notice, proceed to recover from it the full amount owing to it.

9. PEG failed to make payment of the R20 million part settlement of the outstanding balance. It also failed to settle the acknowledged debt or comply with the terms of the acknowledgement of debt. As a result of PEG's breach, FirstRand demanded, in a letter dated 19 October 2019, that PEG make payment of the outstanding balance, and that if PEG neglects to pay the outstanding amount, or "to secure or compound for it to the bank's reasonable satisfaction", then PEG would be deemed to be unable to pay its debts in accordance with Section 345 of the old Companies Act.

10. PEG sought to rebut the deeming provision of section 345 by raising two contentions in the court *a quo*. These are that the debt outstanding was "compromised" or "compounded" and that it had provided security for it to the satisfaction of FirstRand as contemplated in section 345(1)(a)(i) of the old Companies Act. It accordingly argued that the court *a quo* ought to

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have exercised its discretion against granting the winding-up order against it. The court *a quo* held in relation to the question of whether the parties had compounded the debt by entering into a compromise agreement as follows:

> '[22] In the present matter, the compromise defense was raised for the first time after [FirstRand] filed its heads of argument. The terms of the alleged agreement, and how it would operate, have not been stated in the affidavit. [PEG] avers that the defence is premised on the facts that appear in the founding affidavit and which are common cause. PEG has failed to show that there were *animus contrahendi* between the parties regarding the conclusion of the alleged compromised agreement.
>
> ...
>
> [25] Following the conclusion of the alleged compromise, the conduct of the parties demonstrates that there was no compromise agreement between them. On 9 May 2018, [FirstRand] again demanded payment of the outstanding indebtedness from PEG. In response, PEG's attorneys informed [FirstRand] that PEG had instructed them that the loan facility amount had been paid in full and that all the properties encumbered by the bonds should be released. [FirstRand] informed PEG that its indebtedness had not been settled in full and that it would proceed with the current application. PEG never complained of a breach of the alleged compromise until the heads of argument were filed.
>
> [26] These exchanges of correspondence are dispositive of the allegations that there was a compromise agreement between the parties.'

11. On the question of "sufficiency of security", the court *a quo* held as follows:

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'[31] [FirstRand] is relying on the deeming provisions concerning the inability of PEG to pay its debts contained in section 345 of the old Act to establish the insolvency of PEG. It requires a liquidator to be appointed, as soon as possible, to take control of PEG's assets and ascertain their true value to enable its, and other creditor's, security to be protected and to be better realised. Accordingly, the sufficiency of available security is not a bar to the applicant seeking the winding-up of PEG.'

12. FirstRand based its winding-up application on the ground that PEG was unable to pay its debts as and when they fell due, as contemplated by section 344(f) of the Companies Act 61 of 1973 read with item 9(1) of Schedule 5 of the Companies Act 71 of 2008 as amended. In terms of section 344(f), one of the circumstances in which a court may wind up a company is if the company is unable to pay its debts as described in section 345 of the old Companies Act. Section 345, in turn, provides:

'345. When company deemed unable to pay its debts –

(1) A company or body corporate shall be deemed to be unable to pay its debts if-

(a) a creditor, by cession or otherwise, to whom the company is indebted in a sum not less than one hundred rands then due-

(i) has served on the company, by leaving the same at its registered office, a demand requiring the company to pay the sum so due; or

(ii) in the case of any body corporate under this Act, has served such demand by leaving it as its main office delivering it to the secretary or some director, manager or principal officer of such body corporate or in such other manner as the Court may direct, and the company or body corporate has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or

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(b) any process issued on a judgement, decree or order of any court in favour of a creditor of the company in return by the sheriff or the messenger with an endorsement that has not found sufficient disposable property to satisfy the judgement, decree or order or that any disposable property found did not upon sale satisfy such process; or

[Para. (b) substituted by s. 26 of Act 59 of 1978.]

(c) It is proved to the satisfaction of the Court that the company is unable to pay its debts.

(2) In determining for the purpose of subsection (1) whether a company is unable to pay its debts, the Court shall also take into account the contingent and prospective liabilities of the company."

13. The questions on appeal are confined to the same two questions: namely whether the parties concluded a compromise agreement and whether PEG had secured the debt as contemplated in section 345(1)(a)(i) of the old Companies Act. I deal with each of them in turn.

Compromise or *Transactio*

14. The contention advanced by PEG in relation to compounding the debt is that it entered into compromise agreement with FirstRand which precluded FirstRand from pursuing a winding-up application based on its failure to pay the debt.

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15. This contention was raised by the appellants in a supplementary affidavit after FirstRand had filed its heads of argument. The court *a quo* granted the appellants leave to file the supplementary affidavit, and thereafter considered the defence of compromise advanced in the affidavit. As referenced in the judgement of the court *a quo*.[1] The court in *Georgias v Standard Bank Charted Finance Zimbabwe Ltd*, [2] with reference to a number of South African authorities, described a "compromise or *transactio*" as "... the settlement by agreement of disputed obligations, or of a lawsuit the issue of which is uncertain. The parties agree to regulate their intention in a particular way, each receding from his previous position and conceding something – either diminishing his claim or increasing his liability".

16. PEG explains the origins of the compromise agreement in its supplementary affidavit as follows:

> " I am advised that the defence of compromise is a defence at law. The facts in support of the defense already appear in the affidavits filed. I venture to say that that they are common cause. In brief they are the following.
>
> In October 2015, [FirstRand's] attorneys, ENS wrote to PEG demanding payment of the sum of R70 533 064. 35 which it claimed was owing at that stage. The applicants demand was made in terms of section 345 of the 1973 Act.

[1] Court a quo Judgement at para 20.
[2] 2000 (1) SA 126 (ZS) at 1381-140 D

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On 5 November 2015, the PEG's erstwhile attorney responded to the above demand and raised the possibility of selling the Umhlanga Properties in order to pay the outstanding balance.

The exchange of this correspondence is referred to in more detail in paragraphs 43 to 51 of [FirstRand's] founding affidavit.

I am advised that the written correspondence constitutes a written contract of compromise. Both parties were represented by duly authorized representatives. At the very least a tacit agreement was concluded in the absence of a written agreement. In any event the parties carried out the terms of the agreement of compromise'

17. It is prudent to examine the written correspondence referred to by PEG as the foundation of its so called contract of compromise. The first letter dated 19 October 2015 is FirstRand's letter of demand in terms of Section 345 of the old Companies Act. The letter reads as follows in relevant part.

'3. "Pursuant to the Extension Letter, [dated 25 August 2015], PEG HR Solutions was granted an extension to make payment of the amount of R 20 000 000.00 (twenty million Rand) ("the Part Settlement") by 31 August 2015 in reduction of the loan facility. PEG HR Solutions has failed to make payment of the Part Settlement and is accordingly in breach of the Loan Agreement.

4. To date PEG HR Solutions has failed to rectify the breach and such failure constitutes an event of default as contemplated in clause 11 of the Loan Agreement, which entitles the Bank to claim immediate repayment of the Outstanding Balance (as defined in the Loan Agreement) and any other amounts owing by the Company to the Bank.

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5. The Outstanding Balance of the Loan Amount as at 14 October 2015 was R70 533 064. 35, plus further interest thereon at the rate of prime plus 2% per annum, calculated from 14 October 2015 to date of payment ("the Outstanding Indebtedness").

6. The Bank has instructed us to demand, as we hereby do, that PEG HR Solutions make payment of the Outstanding Indebtedness.

7. If for three weeks after the date on which this letter is served upon PEG HR Solutions by leaving the letter at PEG HR Solutions' registered address, PEG HR Solutions has neglected to make payment of the outstanding indebtedness to the Bank, or to secure or compound for it to the Bank's reasonable satisfaction, then PEG HR Solutions shall be deemed to be unable to pay its debts as provided for in terms of section 345 of the Companies Act 61 of 1973, read with item 9, schedule 5 of the Companies Act 71 of 2008.'

18. In response, Asger Ganie Attorneys, representing PEG, wrote in a letter dated 5 November 2015, that they intended to explore the possibilities of engaging with one another with a view to finding a solution in order to avoid protracted litigation costs. To this end, the letter records:

'3.1 On or about 20 August 2008 our client entered into a Loan Facility Agreement and several subsequent addenda thereto with your client ("collectively referred to as the Loan Agreement").

3.2 The purpose of the Loan Agreement was to assist our client with financing the proposed development of Erven 2579, 2580, 2582 and 2583 Umhlanga Rocks ("the Property") and the payment of rates and taxes.

3.3 Our client has recently reconsidered its commitment to develop the Property and is exploring the possible option of selling it. Our client is in the process of engaging Tongaat Hulett Developments (Pty) Ltd in order to discuss and finalise the proposed sale.

3.4 Upon finalization of the transaction our client will be in a position to settle the Outstanding Balance of the Loan in full. In the interim our client is prepared to pay the interest on the Outstanding Balance at the agreed rate of prime plus 2% on a monthly basis until the finalisation of the transaction.

3.5 Our client is further prepared to make payment of the November and December 2015 interest in advance within 7 (seven) days of your acceptance of our proposal, where after it will pay the interest on the 1st day of each month in advance.

4. Please advise whether your client is amenable to the aforementioned proposal by noon on Friday, 6 November 2015.'

19. Since PEG alleges that a compromise has been effected, it bears the onus to prove that the parties entered into such a compromise. As a form of novation that involves the waiver of existing rights (or claimed rights), a compromise must be clearly and unambiguously proved. [3] *Animus contrahendi* is a *sine qua non* for the conclusion of a *transactio*. In other words, the party who alleges the conclusion of a compromise or *transactio* is required to demonstrate that the parties intended to conclude a compromise or *transactio* and to be contractually bound by it.

20. In determining whether or not the parties are intended to be bound contractually by the purported *transactio* or compromise, the court is required to examine the factual matrix which comprises of the proven facts which show what the parties intention was in respect of entering into the compromise. These would include the contemporaneous documents, the

[3] Christie, The Law of Contract in South Africa, 7th Edition at 528.

parties conduct in negotiating and communication with each other and, importantly, the steps taken to implement the purported compromise. [4]

21. PEG contends that the compromise was effected by virtue of the two letters of 18 October and 5 November 2015. Properly construed, these letters do not lend themselves to the interpretation contended for by PEG. At best for PEG, its attorneys (Asger Ganie) requested that FirstRand indicates whether it was amenable to its proposal to develop and sell the Umhlanga properties, and upon finalization of the sale transaction, to settle the Outstanding Balance at the agreed rate of prime plus 2% on a monthly basis until the finalisation of the transaction. It, furthermore, proposed to make payment of the "November and December 2015 interest in advance within 7 (seven) days of your acceptance of our proposal, where after it will pay the interest on the 1st day of each month in advance".

22. As I understand this letter, it was merely a proposal and not an offer made *animo contrahendi*, which upon acceptance would give rise to an enforceable agreement of a compromise or *transactio*. [5] Besides, at no point in the exchange of the correspondence between the parties, subsequent to the proposals made in the 5 November 2015 letter, did FirstRand accept the proposal.

[4] *Novartis SA (Pty)Ltd v Maphil Trading (Pty) Ltd 2016 (1) SA 518 (SCA) at para 45*
[5] *Pitout v North Cape Livestock Co-op Ltd* 1977 (4) SA 842 (A) at 850D

23. Moreover, and as the court *a quo* correctly pointed out, the Asger Ganie letter does not dispute the indebtedness of PEG to FirstRand. Far from it, it undertakes to settle the loan in full. This is inconsistent with a compromise or *transactio* which is the settlement by agreement of disputed obligations. Not only does PEG not dispute its obligation to pay it outstanding indebtedness to FirstRand, but it undertakes to settle the loan in full conditional on the sale of all four properties. This is alone would be dispositive of the argument that the parties entered into a compromise agreement.

24. Significantly, FirstRand Bank did not respond, in writing, to the letter of 5 November 2015 in which PEG's then attorneys (Asger Ganie) proposed the sale of the four Umhlanga Properties and the repayment arrangement conditional on their sale. However, on 10 February 2016, it wrote to Webber Wentzel attorneys (PEG's new attorneys of record) stating that it was advised that the four properties had been sold. Webber Wentzel responded in a letter dated 16 February 2016, that the properties had not been sold due to some confusion at the auction. This confusion arose from a purported offer to purchase from PGA Architects, an Umhlanga based firm. On 19 February 2016, ENS Africa responded, on behalf of FirstRand, in a letter stating that its "client is of the view that the confusion relating to the auction is a further strategic delay by your client to frustrate this matter. We furthermore wish to confirm that we hold instruction to proceed to institute proceedings against your client".

25. This was followed by a further letter of demand, dated 9 May 2015, in terms of section 345 of the old Companies Act. On 28 August 2016, on behalf of PEG, Nozuko Nxusani Inc responded by stating that the loan facility amount had been paid in full. On 3 September 2016, ENS Africa, wrote to Nozuko Nxusani Inc, indicating that this allegation is incorrect and that PEG is currently indebted to FirstRand in the amount of R27 612 987.75. It, accordingly, recorded its instructions "to proceed with institution liquidation proceedings against PEG as well as application proceedings against Mr Dlamini in terms of the suretyship executed by him". By any measure, conduct of this nature does not suggest that the parties intended to be contractually bound by a compromise or *transactio* between the parties.

26. The allegations relating to the auction and FirstRand's attitude to it, are pertinently set out in FirstRand's founding affidavit in both applications. It is telling that PEG's response to these allegations, in its answering affidavit, is that they are "irrelevant to the proceedings". However, as persuasively contended for, on behalf of FirstRand, their relevance is significant in determining whether the parties intended to be bound by the alleged compromise or *transactio*, as they form the background or surrounding circumstances that reveal the parties conduct and their intentions.

27. It is also significant that the parties meticulously recorded the various changes to the terms of the loan agreement and acknowledgement of debt by concluding various addenda.[6] The contention that a compromise agreement as entered into by tacit conduct is, therefore, in sharp contrast to the way the parties have conducted their affairs since the commencement of the loan agreement.

28. Thus, in view of the plethora of addenda and agreements which were meticulous in their terms, it is highly improbable that the parties would have agreed on a compromise without defining those obligations in a written agreement to that effect. As I see it, the whole defence of a compromise was nothing but an afterthought. When viewed against the objective facts, there is no evidence that the parties intended to be bound by a compromise agreement.

29. For these reasons, I am of the view that the court *a quo* did not err in concluding that the parties' conduct demonstrates that no compromise was concluded.

Sufficiency of Security

30. In relation to this issue of security, PEG alleges that it has sufficient assets to secure or compound the debt which should be to the reasonable satisfaction of FirstRand. Therefore, the Court *a quo* should have exercised

[6] On 30 August 2011 a further addendum was concluded.

its discretion against granting the order for winding-up or refer the matter for oral evidence.

31. The latter argument was, however, prudently abandoned since it was not advanced in the Court *a quo*.

32. Significantly, in this regard in Orestisolve (Pty) Ltd t/a Essa Investments v NDFT Investment Holdings (Pty) Ltd and Another,[7] in explaining the *ex debitio justitae* maxim, observed as follows:

> *"...The ex debito justitae maxim, I venture to suggest, conveys no more than that, once a creditor has satisfied the requirements for a liquidation order, the court may not on a whim decline to grant the order (and see Blackman op cit vol 3 at 14-91). To borrow another judge's memorable phrase, the court 'does not sit under a palm tree'. There must be some particular reason why, despite the making out of the requirement an order is withheld."*

33. The court *a quo* correctly found that FirstRand had established the jurisdictional requirements within the meaning of section 345 of the old Companies Act and had thus proved PEG's deemed inability to pay its debts. In the circumstances, FirstRand was entitled *ex debito justitae* to a winding-up order. Although conceding this in argument, counsel for PEG nevertheless argued that the court *a quo* erred in granting the winding-up order because it failed to take into consideration that Mr. Dlamini had a

[7] 2015 (4) SA 449 (WCC) at par 18.

continuing personal security in favour of the FirstRand in the sum of R30 million, and PEG had additional security comprising: (a) a covering mortgage bond in respect of the Umhlanga Rocks properties in the amount of R66 million; (b) a covering mortgage bond over the River Club properties in the amount of R20 million; and (c) a covering mortgage bond over the Buccleuch property in the amount of R5 million.

34. As I understand it, the question of the existence or otherwise of security as contemplated in section 345(1)(a)(i) of the old Companies Act is not a *bona fide* defence to a winding-up application but rather a factor which a court is required to take into account in the exercise of its discretion whether to grant a winding-up order or not. It is clear from the affidavit evidence before the court *a quo* that three of the Umhlanga properties had already been sold at auction and the proceeds were used towards part payment of the outstanding debt. FirstRand had also called up the personal security of R30 million provided by Mr Dlamini who, needless to say, failed to make good on it. As a result, FirstRand was required to launch the application against Mr Dlamini, as surety and co-principal debtor, for payment of the outstanding balance of R27 612, 987.75. Thus, in the circumstances where Mr Dlamini has failed to make good on his personal surety, and PEG is commercially insolvent, FirstRand would be entitled to a winding-up order. It should not be obliged to wait indefinitely for payment of an acknowledged indebtedness or to execute against immovable property of PEG.

35. The court *a quo*, in my view, took the security held by PEG into consideration and was satisfied that a winding-up order would enable the appointment of a liquidator to take control of PEG's assets, ascertain their true value and realise and dispose of them for the benefit of all creditors including FirstRand. The court *a quo* was also fully cognizant of the establishment of the *concursus creditorum* and the rationale for the limitation of the disposal of the assets of the company that is facing winding-up. In *Montic Dairy (Pty) Ltd v Mazars Recovery and Reconstructing (Pty) Ltd*[8], the Court held as follows:

> *"The rationale for the limitation of the disposal of the assets of a company that is facing liquidation is obvious. Once the application to wind up is lodged with the court, the public at large is informed of the true state of affairs in the company- essentially that it is unable to pay its debts and/or that its liabilities may exceed its assets. The lodging of the application then results in concursus creditorum and the hand of the court is thus placed on the insolvent company to preclude the dissipation of its remaining assets otherwise than in accordance with the scheme of payments sanctioned under the old Act."*

36. That being the case, the court *a quo* was correct in concluding that the existence of security is not a bar to granting a winding-up order. Nor do I consider it to have erred in concluding that "PEG has failed to discharge the onus of demonstrating that its indebtedness to [FirstRand] has indeed been disputed on a *bona fide* and reasonable grounds". Similarly, the court *a quo* did not err in granting FirstRand the relief it sought against Mr

[8] 2021 JDR 0217 (WCC) par 22

Dlamini in the suretyship application. FirstRand had demanded payment from Mr Dlamini which he ignored. He then advanced the same contentions in the suretyship application, as those advanced by PEG in the wind-up application, which the court *a quo* correctly rejected. FirstRand was accordingly entitled to enforce its claim against Mr Dlamini in terms of the suretyship agreement.

37. For all these reasons, the appeals against both applications must fail.

COSTS

38. I see no reason why costs should not follow the result in both appeals.

ORDER

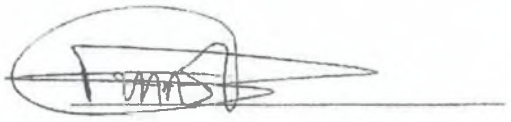
In the result, I make the following order:

1. The appeal against the order under case number 34779/2018 is dismissed with costs.

2. The appeal against the order under case number 38401/2018 is dismissed with costs.

E20

2. The appeal against the order under case number 38401/2018 is dismissed with costs.



MOTHA AJ
ACTING JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG

Appearances:

For the Appellant:	C. Georgiades
(Instructed by:	Nozuko Nxusani Inc.)
For the Respondent:	A Laher
(Instructed by:	Edward Nathan Sonnenbergs Inc.)

E20

"FA21"
"AA4"

Supreme Court of Appeal, Registrar's Office • PO Box 258, Bloemfontein, 9300 • c/o Elizabeth- & President Brand Street, Bloemfontein •
Tel (051) 4127 400 • Fax (051) 4127 449 • www.supremecourtofappeal.gov.za

Enquiries: Ms De Wee | Date: 24 JUNE 2022 | Ref: 350//2022

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P O Box 41
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Mr/Ms

APPLICATION FOR LEAVE TO APPEAL
E M DLAMINI v FIRSTRAND BANK LTD

With reference to the application lodged in this office on 28 APRIL 2022 this Court ordered on 22 JUNE 2022 that the application be dismissed as per attached order:-

Yours faithfully

C L DE WEE (Ms)
REGISTRAR

REGISTERED POST (H/B/D/O)

YOUR REF: A 5049/2020 Kathree-Setiloane J, Malindi & Motha AJJ (Court *a quo*)

Registrar of the High Court
Cnr Von Brandis & Pritchard Street
JOHANNESBURG
2001

Copy for your information.

SUPREME COURT OF APPEAL OF SOUTH AFRICA

CASE NO: 350/2022
GJ CASE NO: A 5049/2020

BEFORE THE HONOURABLE JUSTICES MOTHLE JA AND GOOSEN AJA

On the 22nd JUNE 2022

In the application between:

EPHRAIM MBUSO DLAMINI — Applicant

and

FIRSTRAND BANK LTD — Respondent

Having considered the Notice of Motion and the other documents filed.

IT IS ORDERED THAT:

1. Condonation as applied for is granted. The applicant for condonation is to pay the costs of the application.
2. The application for special leave to appeal is dismissed with costs on the grounds that the requirements for special leave to appeal are not satisfied.

BY ORDER OF THIS COURT

COURT REGISTRAR
C L DE WEE (Ms)

PO Box 268, Bloemfontein 9301

2021 -06- 24

SCA-003

"FA23"

"AA5"

CONSTITUTIONAL COURT OF SOUTH AFRICA

Case CCT 197/22

In the matter between:

EPHRAIM MBUSO DLAMINI Applicant

and

FIRST RAND BANK LIMITED (PTY) LIMITED Respondent

ORDER

CORAM: Zondo CJ, Maya DCJ, Baqwa AJ, Kollapen J, Majiedt J, Madlanga J Mathopo J, Mbatha AJ, Mhlantla J, Rogers J and Tshiqi J.

The Constitutional Court has considered the application for leave to appeal and has concluded that it does not engage the jurisdiction of the Court. Consequently, leave to appeal must be refused. The Court has decided not to award costs.

Order: Leave to appeal is refused.

STEPHEN CINDI
REGISTRAR
CONSTITUTIONAL COURT

2023 -07- 20

CC-001

TO: DIAHO ATTORNEYS INCORPORATED
Attorneys for the Applicant
94 Commissioner Street
Marshalltown

JOHANNESBURG
Tel: 073 995 5310
Email: eketsang@diahoinc.co.za
Ref: Dlamini/CC01

AND TO: EDWARD NATHAN SONNENBERGS INCORPORATED
Attorneys for the Respondent
Tower 1, The MARC
129 Rivonia Road
Sandton
JOHANNESBURG
Tel: 011 269 7600
Fax: 011 918 3439
Email: kkotze@ensafrica.com / arousseau@ensafrica.com
Ref: K Kotze / A Rousseau / 0401532

"AA6"

REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Case Number: 2024-092685

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES

27 March 2026
DATE

SIGNATURE

In the matter between:

EPHRAIM MBUSO DLAMINI Applicant
Identity Number: 561018 5771 087
Address: 30 Springhill Road, Riverclub, Sandton
Marital status: unmarried

and

FIRSTRAND BANK LIMITED Respondent
(Registration Number: 1929/001225/06)

JUDGMENT ON APPLICATION FOR LEAVE TO APPEAL

WANLESS J

Introduction

[1] This is an application by Ephraim Mbuso Dlamini *("the Applicant")* for leave to appeal against the whole of the judgment and order granted by this Court on 13 February 2026. In terms of that order, the Applicant's estate was placed under final sequestration in accordance with the provisions of the Insolvency Act 24 of 1936 *("the Insolvency Act").* The Respondent in this application is FirstRand Bank Limited *("the Respondent")*, which was the applicant in the main sequestration proceedings.

[2] The Applicant, who is self-represented, seeks leave to appeal to the Full Court of this Division, *alternatively,* to the Supreme Court of Appeal. The Respondent opposes the application.

Background

[3] The factual and procedural background to this matter is set out fully in the main judgment delivered on 13 February 2026. For purposes of this application, it is sufficient to highlight the following salient features.

[4] On 22 October 2019, judgment was granted against the Applicant in favour of the Respondent for a capital sum of approximately R27.6 million *("the 2019 Judgment").* All subsequent applications for leave to appeal against that judgment, including to the Supreme Court of Appeal and the Constitutional Court, were refused. The 2019 Judgment is accordingly final and binding.

[5] Relying on the 2019 Judgment and a *nulla bona* return of a writ of execution, the Respondent instituted sequestration proceedings in August 2024. A provisional order of sequestration was granted on 5 December 2024 and, from time to time, extended to 27 February 2026.

[6] Following the filing of extensive opposing papers by the Applicant, including an answering affidavit, an *(irregular)* "amended answering affidavit", and an application for leave to prosecute a counterclaim, the matter was heard on 29

July 2025. On 13 February 2026, this Court granted a final order of sequestration, finding that the Respondent had established:

6.1 a valid claim entitling it to apply for sequestration;

6.2 proof that the Applicant had committed an act of insolvency and was factually insolvent; and

6.3 reason to believe that the final sequestration of the Applicant's estate would be to the advantage of his creditors.[1]

[7] The Court also dismissed the Applicant's application for leave to prosecute a counterclaim within the sequestration proceedings, finding that sequestration proceedings are summary in nature and not the appropriate forum for the trial of intricate issues of fraud and damages.[2]

The test for leave to appeal

[8] The test for leave to appeal is governed by section 17(1) of the Superior Courts Act 10 of 2013 *("the Act")*. In terms of section 17(1)(a), leave to appeal may only be given where the judge or judges concerned are of the opinion that:

(i) the appeal would have a reasonable prospect of success; or

(ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.

[9] The threshold for granting leave to appeal under the Act is higher than that which applied under the repealed Supreme Court Act 59 of 1959. As the Supreme Court of Appeal *("the SCA")* stated in *MEC for Health, Eastern Cape v Mkhitha*:[3]

"An applicant for leave to appeal must convince the court on proper grounds that there is a reasonable prospect or realistic chance of success on appeal. A mere possibility of success, an arguable case or one that is not hopeless, is not

[1] Judgment, para 11.
[2] Judgment, para 9.
[3] 2016 ZASCA 176 (SCA) at para 16.

enough. There must be a sound, rational basis to conclude that there is a reasonable prospect of success on appeal."

[10] Similarly, in *Notshokovu v S*,[4] the SCA emphasised that the test is whether there is a *"reasonable prospect"* of success, not merely whether there is a *possibility of success*. The court must assess the grounds of appeal against the facts of the case and the applicable legal principles to determine whether another court *"would"* interfere with the decision.[5]

[11] In the premises, this Court must consider the Applicant's grounds of appeal against this exacting standard.

The Applicant's grounds of appeal

[12] The Applicant's grounds of appeal are set out in his Consolidated Notice of Application for Leave to Appeal dated 22 February 2026. The grounds may be summarised as follows:

12.1 Material misdirection in the determination of factual insolvency.

The Applicant contends that this Court misdirected itself in valuing his assets at approximately R37.5 million, failing to properly consider certain documentary evidence, including a 2019 signed sale agreement reflecting a purchase price of R35 million for his primary residence; a 2020 signed auction agreement reflecting R29.25 million for the same property, and an offer of approximately R15 million for another property. He submits that had realistic market values been applied, his asset base would approximate or exceed the Respondent's claim, negating factual insolvency.

12.2 Failure to properly analyse the advantage to creditors.

The Applicant submits that this Court failed to consider that the Respondent is effectively the sole substantial creditor; that a single-creditor sequestration was

[4] 2016 ZASCA 112 (SCA) at para 2.
[5] See also The Mont Chevaux Trust v Goosen 2014 JDR 2325 (LCC) at para 6.

disproportionate, and that less drastic measures could achieve recovery without destroying substantial asset value.

12.3 Failure to consider an income-producing asset.

The Applicant contends that one of his properties generates rental income of approximately R50 000.00 to R55 000.00 per month, which mitigates insolvency thereby impacting the *"balance-of-convenience analysis"*, which this Court failed to consider.

12.4 Constitutional and proportionality considerations.

The Applicant submits that his primary residence houses three minor children and that this Court failed to properly weigh the constitutional imperative that the best interests of the child are of paramount importance, and that the drastic remedy of final sequestration required stricter scrutiny.

12.5 Failure to distinguish protected and realisable assets.

The Applicant contends that this Court failed to distinguish between statutorily protected retirement interests and realisable estate assets, and that any reliance upon assets excluded by section 37A of the Pension Funds Act 24 of 1956 or section 23(7) of the Insolvency Act, constitutes a material misdirection.

12.6 Failure to determine validity of underlying debt (jurisdictional error).

The Applicant submits that he pleaded and argued that the alleged indebtedness was tainted by fraud, accounting irregularities, statutory breaches *(including the National Credit Act),* together with the improper use of certificates of balance, and that this Court failed to determine whether the debt was *bona fide* and legally enforceable before concluding factual insolvency.

12.7 Misapplication of res judicata.

The Applicant contends that this Court treated the 2019 Judgment as conclusively determinative without independently evaluating the pleaded fraud

and statutory invalidity issues, whereas the doctrine of *res judicata* is applied flexibly in our law and must not operate mechanically where injustice may result.[6]

12.8 *Failure to weigh countervailing loan and asset claims.*

The Applicant submits that the documented loan and asset claims were before this Court and directly affected solvency, but this Court failed to properly incorporate them into the insolvency assessment.

[13] The Applicant submits that, cumulatively, these misdirections satisfy the threshold in section 17(1) of the Act and that there are reasonable prospects that another court would reach a different conclusion, *alternatively*, that compelling reasons exist for the appeal to be heard.

Discussion

[14] This Court has carefully considered each of the grounds raised by the Applicant. Having done so, this Court is not persuaded that the Applicant has satisfied the test for leave to appeal as set out in section 17(1) of the Act.

The underlying debt and the 2019 Judgment

[15] The Applicant's attempt to re-litigate the validity and enforceability of the underlying debt is fundamentally misconceived. The 2019 Judgment is a final and binding judgment of this Court. All applications for leave to appeal against that judgment were refused, including by the SCA and the Constitutional Court. The judgment stands unless and until it is set aside by a court of competent jurisdiction.[7]

[16] In sequestration proceedings, a final judgment against the debtor constitutes conclusive proof of the creditor's claim.[8] While a debtor may challenge the *bona fides* of the judgment creditor's claim in limited circumstances, such as where the

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[6] Smith v Porritt and Others 2008 (6) SA 303 (SCA); Prinsloo NO and Others v Goldex 15 (Pty) Ltd and Another 2014 (5) SA 297 (SCA).
[7] Judgment, para 8.1.
[8] Hano Trading CC v JR 209 Investments (Pty) Ltd 2013 (1) SA 161 (SCA) at para 9.

judgment was obtained by fraud or in circumstances constituting a gross irregularity, the Applicant has failed to place any admissible evidence before this Court to substantiate his sweeping allegations of fraud, accounting irregularities, or statutory breaches. As the main judgment records, these allegations amount to baseless and vexatious assertions.[9]

[17] The Applicant's reliance on *Smith v Porritt*[10] and *Prinsloo NO v Goldex 15 (Pty) Ltd*[11] does not assist him. Those cases stand for the proposition that *res judicata* and issue estoppel are applied flexibly and must not operate mechanically where injustice may result. However, they do *not* entitle a litigant to re-litigate matters that have been finally determined by a court of competent jurisdiction in the absence of any proper basis for doing so. The Applicant has raised no new facts or evidence that were not, or could not have been, raised in the proceedings leading to the 2019 Judgment. There is no injustice in holding him to the consequences of that judgment.

Factual insolvency

[18] The Applicant's challenge to this Court's finding of factual insolvency is similarly without merit. In the main proceedings, the Respondent provided a detailed schedule indicating liabilities of approximately R50 million against assets of approximately R37.5 million, leaving a deficit of at least R12 million. The Applicant was invited to gainsay this evidence but failed to do so with any credible, substantiated evidence of his own.

[19] The *"documentary market evidence"* upon which the Applicant now relies, namely, a 2019 sale agreement and a 2020 auction agreement, were not properly proved in the answering affidavit. In any event, these documents relate to transactions that never materialised and do not constitute current market valuations. The Applicant did not himself proffer any *"realistic and defensible"* market values of his immovable properties in his affidavits. He cannot now seek to introduce such evidence in an application for leave to appeal.

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[9] Judgment, para 8.2.
[10] 2008 (6) SA 303 (SCA).
[11] 2014 (5) SA 297 (SCA).

[20] Furthermore, the Applicant's reliance on a further immovable property, owned not by him but by a third-party company *(the principal debtor, which is itself in liquidation*), does not assist him. A debtor cannot rely on third-party assets to demonstrate solvency.

[21] The finding of factual insolvency was based on the evidence properly before this Court and stands unchallenged by any admissible countervailing evidence. An appellate court would not interfere with this finding.

Advantage to creditors

[22] The test for advantage to creditors is whether there is reason to believe that some benefit will accrue to creditors, not whether it is certain.[12] The Applicant is an active businessperson with diverse business interests, including directorships of some 67 companies. A trustee would be empowered to investigate these interests and the Applicant's financial affairs, which in itself constitutes an advantage. Moreover, the equity in the applicant's immovable properties, exceeding secured claims by approximately R4 million, offers the prospect of a reasonable dividend for concurrent creditors.

[23] The fact that the Respondent is the sole substantial creditor does not preclude a sequestration order. The Insolvency Act does not require multiple creditors and the presence of a single creditor does not render the advantage requirement inapplicable or unsatisfied.[13]

Income-producing asset

[24] The Applicant's contention that one of his properties generates rental income of approximately R50 000.00 to R55 000.00 per month, was not pleaded or proved in his answering affidavits. This allegation appears for the first time in the application for leave to appeal and cannot be raised now.

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[12] Epstein v Epstein 1987 (4) SA 606 (C) at 609; Meskin v Anglo-American Corporation of SA Ltd 1968 (4) SA 793 (W) at 798.
[13] Amato v Sheppard 1972 (3) SA 442 (D) at 443; Van Rooyen v Van den Berg 1996 (1) SA 335 (T).

[25] In any event, even if such income existed, it would not affect the finding of factual insolvency or the advantage requirement. Moreover, the Respondent holds a cession of rental income from the Applicant's properties in terms of the underlying loan agreements.

Constitutional and proportionality considerations

[26] The Applicant's reliance on the constitutional rights of his minor children is misplaced. Whilst the best interests of minor children are of paramount importance in all matters concerning them,[14] this does not immunise a debtor from the consequences of insolvency. The Applicant did not pertinently raise this issue in the main proceedings and insufficient evidence was placed before this Court to enable any proper assessment of the impact of sequestration on the minor children.

[27] The case of *Ferris v FirstRand Bank Ltd*[15], upon which the Applicant relies, does not support his argument. In *Ferris*, the Constitutional Court emphasised the drastic nature of sequestration but confirmed that it remains a legitimate remedy for creditors where the statutory requirements are met.

Protected assets

[28] The Applicant's complaint that this Court failed to distinguish between protected retirement interests and realisable estate assets is devoid of merit. No evidence was placed before this Court regarding any pension interests held by the Applicant. In any event, assuming such interests exist and only become payable after sequestration, section 37B of the Pension Funds Act 24 of 1956 would apply. The finding of factual insolvency was based on the assets disclosed by the Applicant in his affidavits.

Cumulative effect

[29] Having considered each of the Applicant's grounds individually, this Court is satisfied that none of them has any reasonable prospect of success on appeal.

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[14] Section 28(2) of the Constitution of the Republic of South Africa, 1996.
[15] 2014 (3) SA 39 (CC).

Nor do they, cumulatively, give rise to any *"compelling reason"* why the appeal should be heard. The Applicant's grounds amount, in substance, to an impermissible attempt to re-litigate matters that have been finally determined, including the 2019 Judgment, and to challenge factual findings that were properly made on the evidence before this Court.

[30] This application must be seen against the backdrop of the Applicant's protracted litigation against the Respondent, which has delayed the final sequestration of his estate for approximately six years. As the Respondent correctly submits, the Applicant has even sought to appeal the provisional sequestration order, which, in terms of section 150(1) of the Insolvency Act, is not competent. This pattern of litigation suggests an abuse of process rather than a genuine pursuit of legally cognisable rights.

Costs

[31] The Respondent seeks costs on an attorney and client scale, *alternatively,* costs including the costs of counsel on scale C, such costs to be costs in the sequestration of the Applicant's estate.

[32] The general rule is that costs follow the result. The Applicant has been unsuccessful in his application for leave to appeal. Moreover, the application lacks merit and forms part of a pattern of litigation aimed at delaying the final sequestration of his estate. In these circumstances, a punitive costs order is warranted.[16]

Conclusion

[33] The Applicant has failed to demonstrate that there are reasonable prospects that another court would come to a different conclusion, or that there are compelling reasons why the appeal should be heard. The application for leave to appeal falls to be dismissed, with costs.

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[16] Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd 1984 (3) SA 623 (A) at 644.

Order

[34] This Court makes the following order:

1. The application for leave to appeal is dismissed.
2. The Applicant is ordered to pay the Respondent's costs on an attorney and client scale, such costs to be costs in the sequestration of the Applicant's estate.

BC WANLESS
JUDGE OF THE HIGH COURT
JOHANNESBURG

Date of Hearing: 5 March 2026

Date of Judgment: 27 March 2026

Appearances

On behalf of the Applicant: In person

Email: mbuso.dlamini@palacegroup.co.za

On behalf of the Respondent: Adv. M De Oliveira

Instructed by: Edward Nathan Sonnenbergs Inc.

Email: ckekana@ensafrica.com ; goertel@ensafrica.com

Wednesday, April 29, 2026 at 8:13:11 AM South Africa Standard Time

Subject:	RE: Rescission Application – Case No. 38401/2018
Date:	Tuesday, 28 April 2026 at 22:01:25 South Africa Standard Time
From:	Calvin Kekana
To:	mbuso.dlamini@palacegroup.co.za
CC:	Gary Oertel, admin@palacegroup.co.za, simon.mabuza@epalvend.com, jill.smith@epalvend.com, Phila Ramphomane, Cameron van der Walt
Attachments:	28.04.2026_Respondent's Answering Affidavit_Rescission Application_Dlamini.pdf

Dear Sir

We refer to the above matter.

We hereby serve the respondent's answering affidavit.

Please acknowledge receipt.

Kind regards

From: Calvin Kekana
Sent: 08 April 2026 04:30 PM
To: 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Cc: Gary Oertel <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; Phila Ramphomane <pramphomane@ensafrica.com>; Cameron van der Walt <cvanderwalt@ensafrica.com>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We refer to the above matter.

We hereby serve the respondent's notice of intention to oppose.

Please acknowledge receipt.

Regards

From: Calvin Kekana
Sent: 30 March 2026 08:44 AM
To: 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We acknowledge receipt of the application.

Our client will be opposing the application.

Kind regards

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>

Sent: 30 March 2026 08:41 AM
To: Calvin Kekana <ckekana@ensafrica.com>
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com
Subject: RE: Rescission Application – Case No. 38401/2018

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Subject: Rescission Application – Case No. 38401/2018 | Final Notice

Dear Sirs,

We refer to the Applicant's rescission application served on you on 23 March 2026, and the follow-up correspondence dated 29 March 2026.

The application was served after business hours on 23 March 2026 and is accordingly deemed to have been received on 24 March 2026.

To date, no confirmation of receipt or indication has been received as to whether your client intends to oppose the application.

Kindly take notice that, in the absence of a response within five (5) court days from the date of this email, the Applicant will proceed to enrol the application on the unopposed motion roll and seek appropriate relief, including costs.

This correspondence is sent in the interests of procedural fairness and to afford your client a final opportunity to indicate its position.

Kindly confirm receipt of this email.

Failing which, the Applicant will proceed without further notice.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 21:26
To: 'Calvin Kekana' <ckekana@ensafrica.com>

Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

Attached is the follow-up email of today, 29.03.2026, which has been filed via Case Lines.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 20:44
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the rescission application served on you on 23 March 2026, together with the Notice of Motion, Founding Affidavit and Annexures A–F, and subsequently uploaded to CaseLines.

Kindly confirm receipt of the application, if not already done, and advise whether your client intends to oppose.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:58
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>

Subject: RE: Rescission Application – Case No. 38401/2018

Dear sirs

Attached is the **Proof of Service** of the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:43
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the above matter.

Kindly find attached the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

The application has been duly filed and uploaded to CaseLines.

The Applicant seeks, inter alia:

- the rescission and setting aside of the 2019 judgment;
- the suspension of enforcement pending determination of this application; and
- the production of the complete underlying transactional records relating to the alleged indebtedness.

Kindly acknowledge receipt hereof.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

Wednesday, April 29, 2026 at 8:11:53 AM South Africa Standard Time

Subject: RE: Rescission Application – Case No. 38401/2018
Date: Tuesday, 28 April 2026 at 22:02:08 South Africa Standard Time
From: Calvin Kekana
To: mbuso.dlamini@palacegroup.co.za
CC: Gary Oertel, admin@palacegroup.co.za, simon.mabuza@epalvend.com, jill.smith@epalvend.com, Phila Ramphomane, Cameron van der Walt

Dear Sirs

We have served our answering affidavit.

Kind regards

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: 28 April 2026 09:58 PM
To: Calvin Kekana <ckekana@ensafrica.com>
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com; Phila Ramphomane <pramphomane@ensafrica.com>; Cameron van der Walt <cvanderwalt@ensafrica.com>; mbuso.dlamini@palacegroup.co.za
Subject: RE: Rescission Application – Case No. 38401/2018

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Dear Sirs,

We refer to the rescission application served on 23 March 2026.

Despite indicating an intention to defend, no answering affidavit has been delivered to date.

Kindly confirm, by no later than **5 May 2026**, your client's position and the anticipated date for delivery of its answering affidavit.

In the absence of a response within the above timeframe, the Applicant will proceed to take appropriate procedural steps, including enrolling the matter or seeking further directions from the Court.

This communication is sent in order to regularise the position and avoid unnecessary delay.

Yours faithfully,
E.M. Dlamini
Applicant (in person)

From: Calvin Kekana <ckekana@ensafrica.com>
Sent: Wednesday, 08 April 2026 16:30
To: mbuso.dlamini@palacegroup.co.za
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com; Phila Ramphomane <pramphomane@ensafrica.com>; Cameron van der Walt <cvanderwalt@ensafrica.com>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We refer to the above matter.

We hereby serve the respondent's notice of intention to oppose.

Please acknowledge receipt.

Regards

Calvin Kekana
Associate
Insolvency, Restructuring and Business Rescue
+27 72 523 9891
+27 11 269 7600
ckekana@ensafrica.com

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Edward Nathan Sonnenbergs Incorporated registration number 2006/018200/21
level 1 B-BBEE rating

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From: Calvin Kekana
Sent: 30 March 2026 08:44 AM
To: 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We acknowledge receipt of the application.

Our client will be opposing the application.

Kind regards

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: 30 March 2026 08:41 AM
To: Calvin Kekana <ckekana@ensafrica.com>
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com
Subject: RE: Rescission Application – Case No. 38401/2018

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Subject: Rescission Application – Case No. 38401/2018 | Final Notice

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We refer to the Applicant's rescission application served on you on 23 March 2026, and the follow-up correspondence dated 29 March 2026.

The application was served after business hours on 23 March 2026 and is accordingly deemed to have been received on 24 March 2026.

To date, no confirmation of receipt or indication has been received as to whether your client

intends to oppose the application.

Kindly take notice that, in the absence of a response within five (5) court days from the date of this email, the Applicant will proceed to enrol the application on the unopposed motion roll and seek appropriate relief, including costs.

This correspondence is sent in the interests of procedural fairness and to afford your client a final opportunity to indicate its position.

Kindly confirm receipt of this email.

Failing which, the Applicant will proceed without further notice.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 21:26
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

Attached is the follow-up email of today, 29.03.2026, which has been filed via Case Lines.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 20:44
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the rescission application served on you on 23 March 2026, together with the Notice of Motion, Founding Affidavit and Annexures A–F, and subsequently uploaded to CaseLines.

Kindly confirm receipt of the application, if not already done, and advise whether your client intends to oppose.

We will await your client's answering affidavit in due course.

Yours faithfully,

E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:58
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear sirs

Attached is the **Proof of Service** of the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:43
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the above matter.

Kindly find attached the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

The application has been duly filed and uploaded to CaseLines.

The Applicant seeks, inter alia:

- the rescission and setting aside of the 2019 judgment;
- the suspension of enforcement pending determination of this application; and
- the production of the complete underlying transactional records relating to the alleged indebtedness.

Kindly acknowledge receipt hereof.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/07) Respondent

APPLICANT'S REPLYING AFFIDAVIT
(RESCISSION APPLICATION)

I, the undersigned,

EPHRAIM MBUSO DLAMINI

do hereby make oath and state:

---

1. INTRODUCTION

1.1 I reply to the Respondent's answering affidavit deposed to by Jean Albertus du Plessis.

MK

1.2 Save where expressly admitted, all allegations contained therein are denied.

1.3 The Respondent's affidavit does not engage with the central issues raised in the founding affidavit, but instead relies on:

- procedural objections;
- the existence of the 2019 judgment; and
- generalised denials.

1.4 The rescission application is not an attempt to re-litigate matters, but to address a judgment granted on a materially defective and incomplete evidential foundation.

---

2. PRELIMINARY: RESPONDENT'S DELAY AND CONDUCT

2.1 The Respondent was served with the rescission application on 23 March 2026.

2.2 Despite indicating an intention to oppose, no answering affidavit was delivered for over a month.

2.3 Only after the Applicant's demand dated 28 April 2026 did the Respondent purport to serve its answering affidavit that same

MIC

evening (See Annexure "E" – correspondence between 23 March 2026 and 28 April 2026 evidencing service, follow-up demands, and the Respondent's delayed reaction).

2.4 The timing of service demonstrates that the affidavit was not filed in the ordinary course, but reactively and under procedural pressure.

2.5 This conduct is consistent with the Respondent's broader litigation approach of delay and tactical response.

---

3. LOCUS STANDI

3.1 The Respondent alleges that I lack locus standi due to sequestration.

3.2 That contention is incorrect.

3.3 The present application concerns:

- the validity of the underlying judgment;
- the correctness of the alleged indebtedness;
- matters directly affecting my legal status and estate.

3.4 It is well established that a litigant may approach the Court to challenge a judgment affecting his rights, particularly where the validity of the underlying debt is disputed.

3.5 In any event:

- the Court retains supervisory jurisdiction;
- and may permit proceedings in the interests of justice.

3.6 The Respondent's locus standi argument is therefore without merit.

3.7 Any alleged procedural defect arising from sequestration is, in any event, curable and cannot operate to bar or delay the adjudication of a bona fide rescission application, particularly where the validity of the underlying judgment is directly impugned.

---

4. RES JUDICATA

4.1 The Respondent relies heavily on res judicata.

4.2 This reliance is misplaced.

MK

4.3 The present application is not a re-litigation of issues previously determined.

4.4 It is based on:

- absence of primary records;
- defective accounting;
- material evidential gaps;
- and facts not properly before the Court a quo.

4.5 A judgment cannot stand where:

- it is based on incomplete or incorrect evidence;
- or where material facts were not properly before the Court.

4.6 Accordingly, the doctrine of res judicata does not apply, as the present application concerns a judgment founded on a materially defective evidential record, which was not properly before the Court.

---

5. ABSENCE OF PRIMARY TRANSACTIONAL RECORDS

5.1 The Respondent does not produce:

MK

- full loan account statements;
- transactional records;
- payment allocation histories.

5.2 Instead, it relies on a Certificate of Balance.

5.3 This is fatal.

5.4 A financial claim of this magnitude cannot be sustained without underlying records.

5.4.1 A court cannot grant judgment on a financial claim where the creditor itself cannot produce the underlying account from which the alleged indebtedness arises.

5.5 The Respondent does not dispute that such records are absent (See Annexure "F" – confirming the absence of complete underlying transactional records).

5.6 The absence of records is not peripheral — it is determinative.

5.7 The Respondent's own position confirms that:

- no complete loan statements exist;
- no full transactional ledger exists;

- no complete accounting record exists.

5.8 A judgment granted in the absence of such records is, by definition,

a judgment granted without evidential foundation.

5.9 It is significant that, even in the Respondent's founding affidavit before the Court a quo, no complete transactional account, loan ledger, payment allocation history, or reconciliation was placed before the Court. The Respondent relied primarily on a Certificate of Balance issued in terms of the Facility Letter. In the absence of underlying records, such reliance could not, in law, sustain a finding of indebtedness.

5.10 This alone is sufficient to justify rescission.

---

6. CERTIFICATE OF BALANCE

6.1 The Respondent contends that the Certificate of Balance is sufficient (See Annexure "B" – the Certificate of Balance relied upon by the Respondent).

6.2 That is incorrect.

MK

15-7

6.3 A Certificate of Balance:

- is not conclusive;
- is subject to challenge;
- must be supported by underlying data.

6.4 It is well established in our law that a Certificate of Balance does not constitute conclusive proof of indebtedness, but merely prima facie evidence thereof. See *Standard Bank of South Africa Ltd v Oneanate Investments (Pty) Ltd* 1998 (1) SA 811 (SCA) at 826H–827B.

6.5 It is further established that such a certificate retains evidential weight only insofar as it is not disturbed by a credible challenge. Once challenged, the credit provider is required to establish the correctness of the indebtedness by reference to the underlying records.

6.6 The Respondent bears the onus of proving the existence and extent of the alleged indebtedness. See *Senekal v Trust Bank of Africa Ltd* 1978 (3) SA 375 (A) at 385A–C.

MK

6.7 Where a certificate of balance is relied upon in the absence of underlying records, and is met with a substantive challenge, it cannot constitute proof of indebtedness, but remains an unverified assertion.

6.8 In this matter:

- the certificate was challenged;
- no supporting records were produced;
- and the challenge was not properly adjudicated.

6.9 The certificate is therefore unreliable and cannot sustain the judgment.

6.10 The Certificate of Balance cannot, in law, be elevated to proof of indebtedness where:

- no underlying ledger exists;
- no transactional history is produced;
- no reconciliation is possible.

6.11 In such circumstances, the Certificate does not constitute prima facie proof, but an unverified assertion incapable of sustaining a finding of indebtedness in law.

MK

6.12 The evidential defect is not confined to the present proceedings. The record demonstrates that, at the time judgment was sought and obtained, the Respondent had not placed before the Court a complete and verifiable account of the alleged indebtedness.

6.13 The Court a quo was therefore asked to accept, and did accept, a Certificate of Balance in circumstances where:

- no full transactional history was produced;
- no reconciliation was provided; and
- no verification of the alleged indebtedness was possible.

6.14 In such circumstances, the Certificate of Balance does not constitute prima facie proof, but an unverified assertion incapable of sustaining a finding of indebtedness in law.

6.15 The judgment was accordingly granted on an evidentially defective foundation, and in the absence of proof of an enforceable debt.

MK

6.16 The reliance on such a Certificate resulted in the Court accepting a financial position that was never capable of verification.

6.17 The Court a quo therefore accepted proof which, in law, does not qualify as proof.

6.18 The Respondent's claim is fundamentally dependent on a Certificate of Balance.

6.19 In law, such a certificate:

- is not conclusive proof;
- is merely prima facie evidence; and
- is inherently rebuttable.

6.20 Its evidential value exists only to the extent that it is supported by an underlying and verifiable account.

6.21 Once challenged, the credit provider bears the burden of proving:

- the existence of the debt;
- the correctness of the amount; and
- the lawful calculation thereof,

MK

by reference to primary transactional records.

6.22 In the present matter:

- the Certificate of Balance was expressly challenged;
- no complete transactional records were produced;
- no loan account statements were provided;
- no payment allocation history exists; and
- no reconciliation was furnished.

6.23 The Respondent has, in effect, placed before the Court:

- a conclusion,

without

- the underlying data required to support that conclusion.

6.24 In such circumstances:

- the Certificate loses its prima facie evidential status;
- it becomes an unverified assertion; and
- it is incapable of sustaining a finding of indebtedness.

6.25 This is not a matter of evidential weight, but of legal sufficiency.

15-12

6.26 A claim unsupported by a complete underlying account is incapable, in law, of sustaining a judgment.

---

7. EXTINGUISHMENT AND OVERPAYMENT

7.1 The Respondent denies that the debt was extinguished.

7.2 However, it does not engage with the reconstruction.

7.3 The reconstruction demonstrates:

- payments exceeding indebtedness;
- overpayment;
- incorrect interest calculations.

(See Annexure "C" and Annexure "D" – financial reconstruction and payment flow analysis demonstrating overpayment and extinguishment).

7.4 The Respondent provides no reconciliation.

7.5 This creates a clear factual dispute that was never properly ventilated.

MK

7.6 The reconstruction is not speculative — it is necessitated by the Respondent's failure to produce records.

7.7 It demonstrates:

- overpayment;
- improper interest calculation;
- failure to credit payments;
- distortion of the true financial position.

7.8 In the absence of a competing reconstruction from the Respondent,

the Court was left with an untested and incomplete version of the facts.

7.9 The judgment is therefore factually incorrect.

---

8. STATUTORY IN DUPLUM RULE AND NCA VIOLATIONS

8.1 The Respondent asserts that the statutory in duplum rule does not apply post-judgment.

8.2 That contention is incorrect in law and unsupported on the facts.

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8.3 The Applicant relies on the statutory in duplum rule as codified in section 103(5) of the National Credit Act 34 of 2005 ("the NCA"), which provides that:

all amounts contemplated in section 101(1)(b)–(g), including interest, fees, charges, insurance, and collection costs, may not, in aggregate, exceed the unpaid balance of the principal debt as at the time of default.

8.4 The statutory in duplum rule:

- operates peremptorily;
- applies for the entire duration of default; and
- cannot be waived, contracted out of, or circumvented by a credit provider.

8.5 It is distinct from, and more stringent than, the common-law in duplum rule, in that it:

- applies not only to interest, but to all charges in aggregate; and
- fixes a hard statutory cap for the duration of default.

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8.6 Accordingly, any amount claimed in excess of the section 103(5) cap is unlawful and irrecoverable as a matter of statute.

8.7 The Respondent has failed to produce:

- any complete loan account statements;
- any transactional ledger;
- any allocation of payments;
- or any reconciliation demonstrating compliance with section 103(5).

8.8 In the absence of such records:

- it is impossible to determine the principal debt at default;
- impossible to determine the accumulation of charges under section 101(1); and
- impossible to verify compliance with the statutory cap.

8.9 The Respondent's reliance on a Certificate of Balance, in these circumstances:

- does not establish compliance with section 103(5);

MK

15-16

- does not constitute proof of lawful indebtedness; and
- is insufficient where the underlying statutory limitation is directly implicated.

8.10 Where a credit provider cannot demonstrate compliance with section 103(5):

- the Court cannot assume compliance;
- the claim becomes legally defective; and
- any judgment founded on such a claim is materially irregular and unsustainable.

8.11 The judgment granted against the Applicant:

- was based on a financial claim that was never tested against the statutory in duplum limit;
- was supported only by an unverified Certificate of Balance; and
- was granted in the absence of primary accounting records.

IMK

8.12 In the absence of compliance with section 103(5), and in the absence of primary accounting records, the Respondent's claim was not legally enforceable at the time judgment was granted.

The Court a quo was therefore deprived of the ability to determine:

- the true principal debt;
- the lawful accumulation of charges; and
- whether any enforceable indebtedness existed at all.

The judgment was accordingly granted on a **legally defective and unproven cause of action.**

8.13 This constitutes:

- a material error of law; and
- a material error of fact, justifying rescission.

8.14 Even if the Respondent's figures were to be accepted (which is denied),

any portion thereof exceeding the statutory cap imposed by

MK

section 103(5) would, in any event, be unlawful and irrecoverable.

8.15 The Applicant has demonstrated:

- a bona fide defence based on overpayment and statutory illegality;
- the absence of a valid and enforceable underlying debt; and
- that, had the true facts and law been before the Court, judgment would not have been granted.

Good cause for rescission is accordingly established.

8.16 The Respondent's own internal confirmation that the relevant loan and reserve accounts cannot be located is not merely evidential — it is dispositive.

A creditor who cannot produce its statutory records cannot enforce its claim — not as a matter of evidence, but as a matter of law.

8.17 The Respondent's failure to produce the underlying credit agreements, bank statements, and full transactional records is

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15-19

not merely evidential — it constitutes a direct violation of the National Credit Act 34 of 2005.

8.18 In terms of section 65 of the NCA, a consumer is entitled to receive documentation relating to a credit agreement in a timely and accessible manner. Despite repeated requests over an extended period (2015 to 2024), as evidenced in Annexure "C1", the Respondent has failed to comply with this statutory obligation.

8.19 Further, in terms of Part D of Chapter 5 of the NCA (sections 107 to 115), a credit provider is required to:

- maintain proper records of account;
- provide statements of account;
- ensure accurate recording of debits and credits; and
- resolve disputes concerning account entries.

8.20 The Respondent has failed to produce:

- any complete statement of account;
- any transactional ledger;
- any reconciliation of payments;

MK

- or any record demonstrating compliance with these statutory provisions.

8.21 The Respondent's own internal confirmation that such records cannot be located (as referenced in Annexure "C1.17") is dispositive.

This admission is consistent with the Respondent's prolonged failure, over nearly a decade, to comply with its statutory obligations under sections 65 and 107–115 of the National Credit Act, as evidenced in Annexure "C1". A credit provider who cannot produce its own statutory records cannot establish a lawful or enforceable indebtedness.

8.22 In these circumstances:

- the Respondent is in breach of peremptory statutory duties;
- the alleged indebtedness is incapable of verification;
- and the Court a quo was deprived of the ability to determine whether any enforceable debt existed at all.

8.23 The Respondent's claim was therefore not only factually unsupported, but statutorily non-compliant and legally defective at the time judgment was granted.

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15-21

8.24 In the circumstances, the Applicant respectfully submits that:

- the 2019 judgment was granted on an incomplete and legally defective record;
- the Respondent has failed to establish any lawful indebtedness; and
- the continued enforcement of the judgment would result in manifest injustice.

The judgment falls to be rescinded.

---

9. ERF 2583 AND DISTORTION OF FINANCIAL POSITION

9.1 The Respondent's accounting excludes the asset known as Erf 2583, a substantial development asset forming part of the Applicant's asset base.

9.2 The asset is of material value, as evidenced by:

- a contemporaneous offer of approximately R25 million; and
- the Applicant's financial reconstruction (Annexure "C" and related schedules), which reflects a materially higher value

MK

based on contemporaneous market offers, co-development proposals, and objective development valuation benchmarks.

9.3 As appears from Annexures "C" and "D", the Applicant's indebtedness to the Respondent had, on a proper reconstruction, been extinguished and in fact overpaid as at 03 April 2017. In those circumstances, there was no commercial, financial, or legal basis for the disposal of Erf 2583. The proposed transaction relied upon by the Respondent must be understood in that context — namely, as a transaction which the Applicant was under no obligation to conclude.

9.4 The precise valuation is not the issue —

the issue is that the asset existed, had substantial value, and was omitted entirely from the Respondent's accounting.

9.5 This exclusion is material and demonstrable.

9.6 As appears from Annexure "G":

- the Respondent was actively engaged in the disposal of Erf 2583;

MK

- a signed offer in the amount of approximately R25 million existed as at August 2018;
- documentation, including a proposed offer to purchase and purported resolutions, was prepared by or at the instance of the Respondent and transmitted to me for consideration, but was never executed by me and accordingly never acquired any legal force or effect.

9.7 No independent or prior corporate resolution was initiated by me for the disposal of Erf 2583, nor was any such resolution ever validly adopted or implemented. The documentation relied upon by the Respondent, including draft resolutions and a proposed sale agreement, was prepared by its attorneys and transmitted to me for signature, but was never signed or authorised by me. Accordingly, no valid agreement of sale was concluded, and the transaction did not proceed. The asset remained the property of PEG HR Solutions (Pty) Ltd and there existed no underlying indebtedness requiring its disposal.

9.8 Notwithstanding the absence of any concluded transaction, the Respondent has treated the asset as if it had been disposed

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15-24

of, or alternatively has omitted it entirely from its accounting, thereby presenting a materially distorted financial position to the Court.

9.9 Despite the absence of any concluded sale or executed agreement, the Respondent:

- failed to include this asset in its accounting;
- failed to reflect its value in the Certificate of Balance;
- failed to present this to the Court.

9.10 The exclusion of this asset resulted in:

- a distorted presentation of indebtedness;
- a misrepresentation of solvency;
- an incomplete financial picture before the Court.

9.11 The Court was therefore misled as to the Applicant's true financial position.

9.12 This constitutes a further independent ground for rescission.

---

10. "NEW FACTS" ARGUMENT

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10.1 The Respondent claims that the facts were always available.

10.2 This is incorrect.

10.3 The central issue is not whether documents existed — but whether the **complete transactional record** was before Court.

10.4 It was not.

10.5 The Respondent itself cannot produce a full account (See Annexure "F" – demonstrating that the underlying records remain incomplete and unavailable).

10.6 The absence of records is not a "new fact" — it is a **newly realised evidential defect**.

---

11. DELAY

11.1 The Respondent alleges unreasonable delay.

11.2 This ignores:

- the absence of records;
- the need for reconstruction;

MK

- ongoing litigation;
- and evolving discovery.

11.3 The delay is reasonable in the circumstances.

11.4 There is no prejudice to the Respondent that outweighs the interests of justice.

---

12. ABUSE OF PROCESS (REJECTED)

12.1 The Respondent alleges abuse of process.

12.2 This is denied.

12.3 The present application seeks to correct a defective judgment.

12.4 That is the opposite of abuse — it is the proper invocation of judicial process.

---

13. RESCISSION TEST

13.1 Rescission is justified where:

- material facts were not properly before the Court;

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15-27

- the judgment is based on incorrect assumptions;
- or the interests of justice require reconsideration.

13.2 All three are present here.

---

14. CORE POSITION

14.1 The 2019 judgment rests on:

- a Certificate of Balance that is not merely unverified, but unsupported by any underlying transactional records;
- the absence of a complete loan account history from inception;
- the absence of payment allocation records;
- matters unrelated to the present rescission application, which concerns only the validity of the judgment and the alleged indebtedness underlying it.

14.2 In these circumstances, the Certificate of Balance was not merely insufficient —

it was inherently misleading in the absence of supporting records.

15-28

14.3 The judgment was therefore granted:

- without a proper evidential foundation; and
- on a materially incomplete and distorted financial record.

14.4 In the absence of proof of an enforceable indebtedness, the Court a quo had no lawful basis upon which to grant judgment.

14.4 This constitutes a fundamental defect going to the root of the judgment, justifying rescission under both Rule 42 and the common law. This is not a case of disputed figures — it is a case of absence of legally cognisable proof.

---

15. CONCLUSION

15.1 The Respondent has failed to:

- produce records;
- engage with reconstruction;
- justify the certificate;
- rebut the evidential defects.

15.2 The application raises serious and material issues.

15.3 The interests of justice require that the judgment be set aside.

15.4 The appeal proceedings address the legal misdirections in the judgment, while the present rescission proceedings address the defective evidential foundation upon which that judgment was obtained.

15.5 The two processes are therefore distinct but complementary, and together demonstrate that the judgment cannot stand.

16. I confirm that the contents of this affidavit are true and correct.

PRAYER

I accordingly pray for:

1. Rescission of the judgment granted on 22 October 2019;
2. Setting aside of all consequential orders;
3. Costs of suit;
4. Further and/or alternative relief.

IMK

ANNEXURE INDEX:

Annexure	Description
A	2019 Judgment
B	Certificate of Balance relied upon
C	Financial Reconstruction Summary
C1	Several requests for documents
D	Payment Flow / Overpayment Evidence
E	Correspondence (incl. ENS delay + demand emails)
F	Evidence of absence of records / CEO confirmation
G	Evidence relating to Erf 2583 (sale documentation and correspondence, including 21 August 2018 offer and resolutions) and attempted disposal of erf 2583

DATED at **JOHANNESBURG** on this the 02nd day of **MAY 2026**.

SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICE CENTRE
SANDTON
2026 -05- 02
KLIENTE DIENSSENTRUM
SANDTON
SUID-AFRIKAANSE POLISIEDIENS

EPHRAIM MBUSO DLAMINI
Self-Represented
30 Springhill Road, Riverclub
Sandton, Johannesburg.
Tel: (082) 606 0492
Email:mbuso.dlamini@palacegroup.co.za
Ref: PEG102/25/01/30

EMC

SIGNED and SWORN to before me at Johannesburg on this the 02nd day of May 2026, the Deponent having declared that he knows and understands the contents of this affidavit, has no objection to taking the oath and considers the oath to be binding on his conscience.

COMMISSIONER OF OATHS

Name: M. Klaas Pheta

Designation: VISPOL

Address: 02 Summit Rd, Morningside Sandton

Signature: _____

SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICE CENTRE
SANDTON
2026 -05- 02
KLIENTE DIENSSENTRUM
SANDTON
SUID-AFRIKAANSE POLISIEDIENS

TO:

The Registrar of above Honourable Court
JOHANNESBURG

AND TO

EDWARD NATHAN SONNENBERGS INC
RESPONDENT'S ATTORNEYS
Tower 1, The Marc
129 Rivonia Road
Sandton
JOHANNESBURG, 2014
Tel. (011) 269 7600
Email: ckekana@ensafrica.com & goertel@ensafrica.com

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ANNEXURE A

2019 JUDGEMENT

REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

(1) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED.

.....
SIGNATURE

22 OCT 2019
DATE

In the matter between:

CASE NO: 34779/2018

FIRSTRAND BANK LIMITED Applicant

and

PEG HR SOLUTIONS (PTY) LTD Respondent

And in the matter between:

CASE NO: 38401/2018

FIRSTRAND BANK LIMITED Applicant

and

EPHRAIM MBUSO DLAMINI Respondent

JUDGMENT

MATOJANE J

Introduction

[1] This judgment will deal with two applications: an application for the final winding-up of a company, and an application to enforce the repayment of a debt based on a suretyship agreement. Given the interrelated nature of the two applications, they can be most conveniently disposed of in one judgment as they share the same factual matrices.

[2] In the winding-up application brought under case number 34779/2018, the applicant, FirstRand Bank Limited ('FirstRand') seeks the final-winding up of the respondent, PEG HR Solutions (Pty) Ltd ('PEG') on the ground that it is unable to pay its debts as and when they fall due, as contemplated by s 344(*f*) of the Companies Act 61 of 1973, as amended (the '1973 Companies Act') read with item 9(1) of Schedule 5 of the Companies Act 71 of 2008, as amended (the '2008 Companies Act').[1]

[3] The second application with case number 38401/2018, is brought by the same applicant against the respondent, Ephraim Mbuso Dlamini ('Dlamini'), who is a director of PEG. FirstRand seeks payment from Dlamini in the sum of R27 612 987.75, together with interest and costs on an attorney and client scale. The cause of action is a written suretyship agreement in terms of which Dlamini bound himself, jointly and severally, as surety and co-principal debtor for PEG's debts in favour of FirstRand arising out of a loan facility (which will be dealt with in more detail below).

[4] The applications are essentially based upon an alleged indebtedness of PEG to FirstRand in the amount of R27 612 987.75. PEG avers that it disputes the debt on bona fide and reasonable grounds and that it is not indebted to the applicant. Firstly, PEG states that its indebtedness to the applicant is in dispute, and secondly, it submits

[1] Section 344(*f*) provides that a company may be wound up by the Court if the company is unable to pay its debts as described in section 345.

that it entered into a compromise with FirstRand in respect of the claim in 2015. PEG also argues that the applicant has failed to satisfy the requirements of s 345 of the 1973 Companies Act for winding-up. In this regard it states that it has sufficient assets to secure or compound the debt, which should be to the reasonable satisfaction of the applicant. It contends that the court should therefore exercise its discretion in favour of PEG, by not granting the order for its final winding-up.

Common cause facts

[5] FirstRand and PEG concluded a loan agreement on 2 September 2008 wherein FirstRand approved a loan facility in favour of PEG for R64 700 000 (the Loan Agreement). Between 2008 and 2014 the parties concluded numerous addenda to the Loan Agreement, which, amongst other things, specified the disbursement of funds. These addenda were concluded in October 2008, 2011, 2012 and 2013.

[6] An Acknowledgement of Debt was signed by PEG on 6 June 2014 in terms whereof PEG acknowledged that it has failed to meet its obligations to the applicant in terms of the Loan Agreement and that it was indebted to the applicant, as at 19 May 2015, in the amount of R56 318 835.95, plus interest (the 'Acknowledged Debt'). PEG further undertook to effect repayment of the Acknowledged Debt on certain terms, and it was agreed that the Acknowledged Debt would be settled in full by no later than 30 November 2015.

[7] On 9 December 2014, a further amendment was made to the Acknowledgement of Debt and Loan Agreement in terms of which *inter alia,* the repayment period was amended to a period which expired on 30 November 2015.

[8] On 25 August 2015, the applicant addressed a letter to PEG which stated that PEG had been granted an extension to make payment in the amount of R20 million as 'Part Settlement' by 31 August 2015 in a reduction of the loan facility, but that no further non-performance by PEG would be condoned. The letter further set out that—

'In the event that the Borrower fails to pay the Part Settlement on 31 August 2015, RMB shall, without any further notice to the Borrower, proceed to recover from the Borrower the full amount owing to RMB without prejudice to any other rights and/or remedies which may be

available to it, including legal costs and to do all things necessary in order to protect its interests.'

[9] PEG failed to make payment of the R20 million as part settlement of the outstanding balance; it also failed to settle the Acknowledged Debt and adhere to the terms of the Acknowledgment of Debt. The respondent was accordingly in breach of the agreements.

[10] As a result, the applicant demanded that PEG make payment of the outstanding balance in a letter of demand dated 19 October 2019. The applicant's demand stated that if PEG neglected to repay the outstanding amounts, or 'to secure or compound for it to the Bank's reasonable satisfaction', then PEG would be deemed to be unable to pay its debts in accordance with s 345 of the 1973 Companies Act.[2]

[11] Section 345 titled 'When company deemed unable to pay its debts' provides—

(1) A company or body corporate shall be deemed to be unable to pay its debts if—

(a) A creditor, by cession or otherwise, to whom the company is indebted in a sum not less than one hundred rands then due—

(i) has served on the company, by leaving the same at its registered office, a demand requiring the company to pay the sum so due; or

(ii) in the case of any body corporate not incorporated under this Act, has served such demand by leaving it at its main office or delivering it to the secretary or some director, manager or principal officer of such body corporate or in such other manner as the Court may direct, and the company or body corporate has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or

(b) any process issued on a judgment, decree or order of any court in favour of a creditor of the company is returned by the sheriff or the messenger with an endorsement that he has not found sufficient disposable property to satisfy the judgment, decree or order or that any disposable property found did not upon sale satisfy such process; or

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[2] Read with item 9(1) of Schedule 5 of the Companies Act 71 of 2008.

(c) it is proved to the satisfaction of the Court that the company is unable to pay its debts.

(2) In determining for the purpose of subsection (1) whether a company is unable to pay its debts, the Court shall also take into account the contingent and prospective liabilities of the company

[12] PEG does not dispute that the Loan Agreement, the accompanying addenda, and the Acknowledgement of Debt were concluded. It accepts that the purpose of the Loan Agreement was to assist PEG with financing the proposed development of certain properties, being Erven 2579, 2580, 2582 and 2583 Umhlanga Rocks (the 'Umhlanga properties'), and for the payment of rates and taxes.

[13] PEG further does not dispute that from time to time, it was required to pay FirstRand monies due to it as per the agreements, the addenda, the Acknowledgement of Debt and the agreed extensions as set out above. However, PEG raises a number of defences to the winding-up application, which is also relied upon by Dlamini in relation to the suretyship application (insofar as they are applicable). It is argued that:

13.1 PEG is not indebted to the applicant and is not obliged to pay any amount whatsoever to FirstRand;

13.2 If the debt is found to exist, then the amount is as a result of economic duress by FirstRand, which induced PEG to sell its Umhlanga properties at a lower value than its actual worth;

13.3 That PEG and FirstRand entered into a compromise agreement, and this precludes the applicant from pursuing a winding-up application based on a failure to pay the debt; and

13.4 That PEG has sufficient security to negate the need for the winding-up of the company. It submits that this security is sufficient to secure or compound the debt owed, to the applicant's reasonable satisfaction, and that the applicant has thus failed to satisfy the requirements as set out in s 345(1)(*a*) of the 1973 Companies Act.

Denial of indebtedness

[14] It is trite that winding-up proceedings are not to be used to enforce payment of a debt that is disputed on bona fide and reasonable grounds.[3] Where, however, the respondent's indebtedness has been prima facie established, the onus is on the respondent to show that this indebtedness is indeed disputed on bona fide and reasonable grounds.[4] The ground upon which PEG disputes its indebtedness to the applicant is set out as follows in paragraph 5 of its answering affidavit:

'The application is based upon the alleged indebtedness of the respondent in the amount of R27,612,987.75. The amount is disputed by the respondent. Its composition is shrouded in vague allegations of monies disbursed on behalf of the respondent. The amounts contained in volumes of debits and credits are not explained by the applicant. The respondent's legal representatives have requested supporting documents in relation to the amounts said to have been disbursed, only to be met with a flat refusal. This request was made in writing and by way of the notice in terms of rule 35 (12) and (14). The respondent is expected to accept the amount without question and on the say-so of the applicant.'

[15] PEG's indebtedness and the computation thereof is not disputed on bona fide and reasonable grounds. First, PEG admits correspondence sent by its attorney, Asger Gani, in terms of which it acknowledged that the Loan Agreement had been concluded with the applicant in order to assist PEG with the proposed development and with the payment of rates and taxes. In the letter, the PEG does not dispute its indebtedness to the applicant and undertakes to settle the loan in full after realising the Umhlanga properties. PEG offers to pay the interest at the rate of prime plus 2% on the loan.

[16] Second, the applicant has attached a certificate of balance to the founding affidavit in respect of the debt, and the respondents have not set out any facts in the

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[3] See *Badenhorst v Northern Construction Enterprises (Pty) Ltd* 1956 (2) SA 346 (T).
[4] *Kalil v Decotex (Pty) Ltd & Another* 1988 (1) SA 943 (A) at 980B-D which states, '…an application for liquidation should not be resorted to in order to enforce a claim which is *bona fide* disputed by the company. Consequently, where the respondent shows on a balance of probability that its indebtedness to the applicant is disputed on *bona fide* and reasonable grounds, the Court will refuse a winding-up order. The *onus* on the respondent is not to show that it is not indebted to the applicant: it is merely to show that the indebtedness is disputed on *bona fide* and reasonable grounds.'

answering affidavit which rebut the amount of the indebtedness reflected in the certificate.

[17] Lastly, PEG delivered a Rule 35(12) and (14) Notice on 26 October 2018 seeking the following: proof of payment of rates and taxes in the amount of R14 million; proof of payment making up the total capital drawn in an amount of R 46.8 million; and invoices for legal fees. The applicant was obliged to answer the Rule 35 Notice by 1 November 2018. The applicant's attorneys advised PEG's attorneys on 2 November 2018 that it was in the process of collating the documents sought and undertook to respond on 5 November 2018. PEG filed its answering affidavit on 6 November 2018, and the next day, applicant adequately responded to PEG's notice by providing the documents sought by PEG. PEG was afforded until the close of business on 19 November 2018 to supplement its answering affidavit.

[18] PEG did not file a supplementary affidavit, nor did it challenge the applicant's reconciliation of payments and receipts. PEG did not compel compliance to its requests made in terms of Rule 35(12) and (14), and cannot now complain that it is unable to accurately quantify the indebtedness as a result of the applicant's refusal to respond to its request. PEG was provided with all the documentation which underpin the reconciliation prepared by the applicant, and despite being provided with the opportunity to deal with the documentation, it has elected not to do so.

The defence of compromise

[19] In response to the letter of demand, PEG held discussions with the applicant regarding the possibility of selling the Umhlanga properties to pay the debt owing to the applicant. An attempt was made to sell the properties by way of a public auction without success. Ultimately, three of the four Umhlanga properties were sold, and the proceeds was used to reduced PEG's indebtedness to the applicant. PEG contends that the parties expressly, alternatively tacitly, concluded a contract of compromise and carried out its terms through the act of the sale of the three properties, and by virtue of the applicant having accepted the proceeds of these sales. It contends that the conclusion of this compromise effectively bars the winding-up proceedings.

[20] A compromise is a settlement of the dispute that is reached by each side making concessions. The Zimbabwe Supreme Court in *Georgias v Standard Chartered Finance Zimbabwe Ltd*, with reference to numerous South African authorities, explained that:[5]

'Compromise, or *transactio*, is the settlement by agreement of disputed obligations, or of a lawsuit the issue of which is uncertain. The parties agree to regulate their intention in a particular way, each receding from his previous position and conceding something - either diminishing his claim or increasing his liability. See *Cachalia v Harberer & Co* 1905 TS 457 at 462 *in fine*; *Tauber v Von Abo* 1984 (4) SA 482 (E) at 485G - I; *Karson v Minister of Public Works* 1996 (1) SA 887 (E) at 893F - G. The purpose of compromise is to end doubt and to avoid the inconvenience and risk inherent in resorting to the methods of resolving disputes. Its effect is the same as *res judicata* on a judgment given by consent. It extinguishes *ipso jure* any cause of action that previously may have existed between the parties, unless the right to rely thereon was reserved. See *Nagar v Nagar* 1982 (2) SA 263 (ZH) at 268E - H. As it brings legal proceedings already instituted to an end, a party sued on a compromise is not entitled to raise defences to the original cause of action. See *Hamilton v Van Zyl* 1983 (4) SA 379 (E) at 383H. But a compromise induced by fraud, duress, *justus error*, misrepresentation, or some other ground for rescission, is voidable at the instance of the aggrieved party, even if made an order of court. See *Gollach& Gomperts (1967) (Pty) Ltd v Universal Mills & Produce Co (Pty) Ltd and Others* 1978 (1) SA 914 (A) at 922H. Unlike novation, a compromise is binding on the parties even though the original contract was invalid or even illegal. See *Hamilton v van Zyl* (*supra* at 383D - E); *Syfrets Mortgage Nominees Ltd v Cape St Francis Hotels (Pty) Ltd* 1991 (3) SA 276 (SE) at 288E - F.'

[21] In order for a compromise to be raised as a defence, PEG would have to allege and prove the conclusion of an agreement. There must be a consensus between the parties as to the terms of the new agreement, and the offer must be accepted. In *Reid Brothers (SA) Ltd v Fischer Bearings Co Ltd*[6] the Appellate Division held that:

'Now a binding contract is as a rule constituted by the acceptance of an offer, and an offer can be accepted by conduct indicating acceptance, as well as by words expressing acceptance. Generally, it can be stated that what is required in order to create a binding contract is that

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[5] *Georgias and Another v Standard Chartered Finance Zimbabwe Ltd* 2000 (1) SA 126 (ZS) at 138I-140D.
[6] *Reid Brothers (SA) Ltd v Fischer Bearings Co Ltd* 1943 AD 232 at 241.

acceptance of an offer should be made manifest by some unequivocal act from which the inference of acceptance can logically be drawn.'

[22] In the present matter, the compromise defence was raised for the first time after the applicant had filed its heads of argument. The terms of the alleged agreement, and how it would operate, have not been stated in the affidavit. The respondent avers that the defence is premised on the facts that appears in the founding affidavit and which are common cause. PEG has failed to show that there were *animus contrahendi* between the parties regarding the conclusion of the alleged compromise agreement.

[23] In paragraph 27 of PEG's affidavit in support of the application for leave to file a further affidavit, it states as follows:

'The respondent's attorney wrote to the applicant's attorney as far back as 24 October 2018 and offered to sell the remaining property in accordance with the said compromise agreement. The applicant rejected this. In doing so, the applicant has breached the compromise and is barred from pursuing a winding-up order....'

[24] If the claim were compromised in 2015, as PEG contends it was, PEG would not still offer the applicant an opportunity to take possession of the remaining Umhlanga property. The applicant's version that the property was offered to it in order to reduce PEG's outstanding indebtedness to the applicant is more probable and effectively not in accordance with the alleged compromise agreement.

[25] Following the conclusion of the alleged compromise, the conduct of the parties demonstrates that there was no compromise agreement between them. On 9 May 2018, the applicant again demanded payment of the outstanding indebtedness from PEG. In response, PEG's attorneys informed the applicant that PEG had instructed them that the loan facility amount had been paid in full and that all the properties encumbered by bonds should be released. The applicant informed PEG that its indebtedness had not been settled in full and that the applicant would proceed with the current application. PEG never complained of a breach of the alleged compromise until the heads of argument were filed.

[26] These exchanges of correspondence are dispositive of the allegation that there was a compromise agreement between the parties.

Economic duress

[27] PEG alleges that it was forced to sell the three Umhlanga properties to JT Ross Property Group at a lower price than its actual value after the applicant had threatened to wind the company up. PEG alleges that it could have realised R4 000 per square metre, as opposed to the R3 350 per square metre that was realised for three of the four Umhlanga properties.

[28] The presence of economic duress can serve to make an agreement unenforceable against a party who was compelled by the duress to enter into it. However, not all pressure (economic or otherwise) can constitute duress sufficient to carry this legal consequence. It must be a pressure that the law regards as illegitimate, and it must be applied to such a degree as to amount to coercion.

[29] In *Medscheme Holdings (Pty) Ltd and Another v Bhamjee*,[7] Nugent JA held thus—

'English and American law both recognise that economic pressure may, in appropriate cases, constitute duress that allows for the avoidance of a contract. As pointed out by Van den Heever AJ in *Van den Berg & Kie Rekenkundige Beamptes v Boomprops 1028 BK* 1999 (1) SA 780 (T), that principle has yet to be authoritatively accepted in our law. While there would seem to be no principled reason why the threat of economic ruin should not, in appropriate cases, be recognised as duress, such cases are likely to be rare. (The point is underlined by the dearth of English cases in which economic duress was found to have existed.) For it is not unlawful, in general, to cause economic harm, or even to cause economic ruin, to another, nor can it generally be unconscionable to do so in a competitive economy. In commercial bargaining the exercise of free will (if that can ever exist in any pure form of the term) is always fettered to some degree by the expectation of gain or the fear of loss. I agree with Van den Heever AJ (in *Van den Berg & Kie Rekenkundige Beamptes* at 795E - 796A) that hard bargaining is not the equivalent of duress, and that is so even where the bargain is the product of an imbalance in bargaining power. Something more - which is absent in this case - would need to exist for economic bargaining to be illegitimate or unconscionable and thus to constitute duress.'

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[7] *Medscheme Holdings (Pty) Ltd and Another v Bhamjee* 2005 (5) SA 339 (SCA) para 18.

[30] In the present case, I am not satisfied that the circumstances outlined by the PEG constitute economic duress. PEG put the properties on public auction without success and was unable to sell the properties. A property developer, JT Ross, delivered an offer to the respondent for its consideration and signature. PEG had an opportunity to consider the offer and was free to seek legal advice in respect of it. The respondent signed and accepted the offers freely and voluntarily and appointed its attorneys, Webber Wentzel, to protect its interests during the transfer process.

The argument of 'sufficient security'

[31] The applicant is relying on the deeming provisions concerning the inability of PEG to pay its debts contained in section 345 of the old Act to establish the insolvency of PEG. It requires a liquidator to be appointed as soon as possible to take control of PEG's assets and ascertain their true value to enable it and other creditor's security to be protected and enable it to be better realised. Accordingly, the sufficiency of available security is not a bar to the applicant seeking the winding-up of PEG.

Conclusion

[32] In order for a final winding-up order to be granted, the applicant has to demonstrate the following: that it is a creditor of the respondent within the meaning of s 346(1)(*b*) of the 1973 Companies Act, which is to be read with Item 9 of Schedule 5 of the 2008 Companies Act; and that the respondent is unable to pay its debts within the meaning of s 345 of the 1973 Companies Act.[8] The applicant is a creditor of PEG, and according to the applicant's reconciliation, PEG is indebted to the applicant in the amount of R27 million. The fact that PEG is commercially insolvent is an indicator of its inability to pay its debts.

[33] The discretion of the court to not grant a winding-up order upon the application of an unpaid creditor where the jurisdictional requirements have been met is narrow

[8] *FirstRand Bank Ltd v Hazan and another; FirstRand Bank Ltd v Hazan Wholesalers and Distributors CC* [2016] 2 All SA 112 (GJ) para 51.

and not wide.[9] In *FirstRand Bank Ltd v Evans*[10] the Court made the following comments in respect of this discretion—

'there is little authority on how this discretion should be exercised, which perhaps indicates that it is unusual for a court to exercise it in favour of the debtor. Broadly speaking, it seems to mean that the discretion falls within that class of cases generally described as involving a power combined with a duty. In other words, where the conditions prescribed for the grant of a provisional order of sequestration are satisfied, then, in the absence of some special circumstances, the court should ordinarily grant the order. It is for the respondent to establish the special or unusual circumstances that warrant the exercise of the court's discretion in his or her favour'.

[34] Once the applicant has demonstrated that the respondent was prima facie indebted to it, it is for the respondent to establish that it disputed that indebtedness on bona fide and reasonable grounds. In this case, PEG has failed to discharge the onus of demonstrating that its indebtedness to the applicant has indeed been disputed on bona fide and reasonable grounds. PEG has failed to make payment, secure or compound for this indebtedness to reasonable satisfaction of the applicant. Demands have been transmitted to PEG and no payments have been forthcoming and PEG which is commercially insolvent stands to be wound up. PEG has not set out special or unusual circumstances which would lead the Court to exercise its discretion not to grant the winding-up order in this case.

[35] In the result, I find that the applicant has established its case on a balance of probabilities for the winding-up of PEG.

[36] In respect of the second application, the agreement of suretyship between FirstRand and Dlamini, dated 2 September 2008, is not in dispute. In terms of the suretyship, the Dlamini agreed to bind himself jointly and severally as surety for and co-principal debtor *in solidum* with PEG, for the due and punctual payment by PEG to the applicant of the sum of R30 000 000 plus interest and costs thereon.

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[9] Ibid paras 59-60.
[10] *FirstRand Bank Ltd v Evans* 2011 (4) SA 597 (KZD) para 27.

[37] Since a surety can invoke the defences available to the principal in defending a claim, Dlamini has raised the defences raised by PEG which I have rejected. The applicant is therefore entitled to enforce its claim in terms of the suretyship agreement.

[38] Despite proper service of the Suretyship Demand Mr Ephraim Mbuso Dlamini has failed to pay the applicant as per demand. In the result:

The following order is granted in the matter with case number 34779/2018:

(a) The respondent PEG HR Solutions Proprietary Limited is placed under final winding-up order in the hands of the Master.

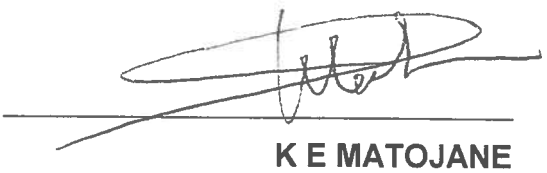
(b) The applicant's costs are to be the costs in the liquidation of the respondent.

The following order is granted in the matter with case number 38401/2018:

(a) The respondent Ephraim Mbuso Dlamini is ordered to pay the applicant the amount of R27 612 987.75 (twenty seven million, six hundred and twelve thousand, nine hundred and eighty seven Rand, and seventy five cents);

(b) Plus further interest thereon at the rate of prime plus 2% per annum, calculated from 31 August 2018 to date of payment, both days inclusive;

(c) Costs of suit on an attorney and own client scale.



K E MATOJANE

JUDGE OF THE HIGH COURT

GAUTENG LOCAL DIVISION, JOHANNESBURG

Date of hearing: 15 August 2019

Date of judgment: 23 October 2019

Appearances:

Counsel for the Applicant:	Adv. A Laher
Instructing Attorneys:	Edward Nathan Sonnenbergs Inc
Counsel for the Respondent:	Adv. C Georgiades SC
Instructing Attorneys:	Nozuko Nxusani Inc

ANNEXURE B

CERTIFICATE OF BALANCE RELIED UPON

"FA46"
270

1 Merchant Place Cnr Fredman Dr & Rivonia Rd Sandton 2196
PO Box 786273 Sandton 2146 South Africa
Switchboard +27 11 282-8000
Facsimile +27 11 282-8008
www.rmb.co.za

Reg No 1929/001225/06
An Authorised Financial Services Provider

RAND MERCHANT BANK
A division of FirstRand Bank Limited

CERTIFICATE OF BALANCE

I, the undersigned,

JEAN DU PLESSIS

in my capacity as a Credit Executive of Rand Merchant Bank (Registration number 1929/001225/06), a division of FirstRand Bank Limited ("the Applicant"), do hereby certify that Ephraim Mbuso Dlamini (Identity Number 5610185771087) is indebted to the Applicant in the amount of R27 612 987.75 (Twenty Seven million, six hundred and twelve thousand, nine hundred and eighty seven Rand and seventy five cents) as at 31 August 2018 plus penalty interest thereon at the Applicant's prime rate plus 2% interest per annum, calculated on a daily basis and capitalised monthly in arrears from date mentioned to date of payment.

JEAN ALBERTUS DU PLESSIS

Directors LL Dippenaar (Chairman) SE Nkosana (Chief Executive Officer) VW Reekie JJH Bester JP Burger MS Ramela P Cooper (Alternate) L Crouse JJ Durand GG Gelink PM Goss NN Gwagwa PK Harris WR Jardine EG Matenge-Sebesho AT Nzimande D Premnarayen (India) KB Schoeman BJ van der Ross JH van Greuning Company Secretary: BW Unser

RMB Divisional Board: SE Nkosana (Chairman) AP Pullinger (Chief Executive Officer) MG Field (Chief Financial Officer) PR Gard (Chief Operating Officer) G Kruger (Chief Risk Officer) ME Oberholster (Chief Investment Officer) JP Burger DJA Craig LL Dippenaar DA Frankel PM Goss RP Goews PK Harris A Perold MW Plaff R Loubser CN Mapaure

2013/07/09

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RAND MERCHANT BANK
A division of FirstRand Bank Limited

PEG HR Solutions (Pty) Ltd

2 Osborn Rd

Houghton Office Park

4Th Floor Houghton

Johannesburg
2198
Attention:

Account Number: 0000002527
Account Name: PEG HR Solutions 2527 Term

Currency: ZAR

Lender Name: Rand Merchant Bank a division of FirstRand Bank Ltd

Date produced: 05/09/2018 10:40:31

Statement of Account
for the period 23 May 2014 to 05 September 2018

Date	Days	Base Rate Type	Base Rate	Base Rate Units	Margin	Margin Rate Units	All-In Rate	All In Rate Units	Drawdown	Total Payment	Capital Payment	Interest Payment	Interest Accrued	Interest Compounded	Total Balance
2014/11/18	0	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	39 469 859,09	0,00	0,00	0,00	0,00	0,00	39 469 859,09
2014/11/28	10	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	100 026,36	100 026,36	39 569 885,45
2014/12/01	3	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	30 083,95	0,00	39 599 969,40
2015/01/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	39 910 836,92
2015/02/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	40 221 704,45
2015/03/01	28	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	280 783,57	0,00	40 502 488,02
2015/04/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	40 813 355,54
2015/05/01	30	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	300 839,54	0,00	41 114 195,08
2015/06/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	41 425 062,61
2015/06/30	29	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	20 000 000,00	20 000 000,00	0,00	290 811,55	0,00	21 715 874,16
2015/07/01	1	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	4 959,50	0,00	21 720 833,66
2015/07/24	23	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	114 068,30	0,00	21 834 901,96
2015/07/31	7	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	158 082,19	0,00	0,00	0,00	35 654,72	0,00	22 028 638,87
2015/08/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 134,68	2 305 605,91	22 033 773,55
2015/08/31	30	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	161 369,86	0,00	0,00	0,00	172 044,53	0,00	22 367 187,94
2015/09/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 776,82	177 621,35	22 372 964,76
2015/09/30	29	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	156 164,39	0,00	0,00	0,00	158 869,91	0,00	22 697 999,06
2015/10/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 863,75	174 733,66	22 703 862,81
2015/10/31	31	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	183 185,96	183 185,96	22 887 048,77
2015/11/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	171 780,82	0,00	0,00	0,00	5 956,90	0,00	43 064 786,49 *
2015/11/20	18	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	201 727,67	0,00	43 266 514,16
2015/12/01	11	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	128 522,18	334 206,75	43 393 036,34
2016/01/01	31	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	359 330,01	359 330,01	43 752 366,35
2016/01/29	28	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	327 243,72	0,00	44 079 610,07
2016/02/01	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	36 859,87	364 103,59	44 116 469,94
2016/02/04	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	37 166,62	0,00	44 153 636,56
2016/02/23	19	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	64 133,82	0,00	0,00	0,00	281 318,03	0,00	44 519 088,41
2016/03/01	7	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	103 841,15	422 325,60	44 622 929,56
2016/03/18	17	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	254 595,21	0,00	44 877 524,77
2016/03/31	13	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	2 739,42	0,00	0,00	0,00	198 663,72	0,00	45 078 927,91
2016/04/01	1	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	15 282,77	468 541,70	45 094 210,68
2016/04/26	27	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	16 069,85	0,00	0,00	0,00	416 967,01	0,00	45 527 247,54
2016/05/01	3	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	46 346,16	463 313,19	45 573 593,72
2016/05/31	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	483 829,25	483 829,25	46 057 422,97
2016/06/20	19	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	9 804,00	0,00	0,00	0,00	299 688,71	0,00	46 366 915,68
2016/07/01	11	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	173 540,93	473 229,64	46 540 456,61
2016/08/01	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	494 093,88	494 093,88	47 034 550,49

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"FA24" 230

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2016/08/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIM	0.00	0.00	0.00	0.00	499 339.41	499 339.41	47 533 889.90
2016/10/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	488 361.88	488 361.88	48 022 251.78
2016/11/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	509 825.28	509 825.28	48 532 077.06
2016/12/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	498 617.23	498 617.23	49 030 694.29
2017/01/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	520 531.34	520 531.34	49 551 225.63
2017/02/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	526 057.53	526 057.53	50 077 283.16
2017/03/01	28	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	480 193.13	480 193.13	50 557 476.29
2017/03/02	1	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	6 920 483.00	0.00	0.00	0.00	17 314.21	0.00	57 495 273.50
2017/04/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	590 526.97	607 841.18	58 085 800.47
2017/04/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	37 178 678.83	26 203 580.00	10 975 098.83	39 784.80	39 784.80	20 046 908.44
2017/04/12	9	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	2 966 975.35	0.00	0.00	0.00	64 562.36	0.00	23 998 444.17
2017/05/01	19	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	155 734.16	220 296.54	24 154 178.33
2017/05/11	10	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	36 634.00	0.00	0.00	0.00	82 719.79	0.00	24 273 532.12
2017/06/01	21	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	173 975.02	256 694.81	24 447 507.14
2017/07/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	251 173.02	251 173.02	24 698 680.16
2017/07/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	251 173.02	0.00	251 173.02	18 916.91	18 916.91	24 464 424.05
2017/07/21	18	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	150 808.09	0.00	24 615 232.14
2017/08/01	11	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	241 125.38	0.00	241 125.38	93 317.29	241 125.38	24 464 424.05
2017/09/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	254 530.55	0.00	254 530.55	254 530.55	254 530.55	24 464 424.05
2017/10/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	246 319.89	246 319.89	24 710 743.94
2017/11/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	257 093.28	257 093.28	24 967 837.22
2017/12/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	251 388.50	251 388.50	25 219 225.72
2018/01/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	262 383.59	262 383.59	25 481 609.31
2018/02/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	265 113.46	265 113.46	25 746 722.77
2018/03/01	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	241 948.65	241 948.65	25 988 671.42
2018/03/29	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	244 222.31	0.00	26 232 893.73
2018/04/01	3	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	25 632.56	269 854.97	26 258 526.39
2018/05/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	258 988.21	258 988.21	26 517 514.60
2018/06/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	270 260.69	270 260.69	26 787 775.29
2018/07/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	264 206.20	264 206.20	27 051 981.49
2018/07/11	10	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	15 502.00	0.00	0.00	0.00	88 936.03	0.00	27 156 423.52
2018/08/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	186 876.88	275 814.91	27 343 300.40
2018/09/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	278 676.93	278 676.93	27 621 977.33
2018/09/05	4	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	36 324.79	0.00	27 658 302.12

← 07 May 2018 - R26 569 823.12

← 31 August 2018 - R27 612 987.75

Please note: Statement reflects interest accruals up to and excluding each line item date and thus excludes interest accrued for 05/09/2018

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"FA25"

Summary of total payments and receipts	
Capital Drawn	46 831 118
Initial / Restructure Fees	3 613 800
Interest	56 436 102
Rates and taxes funded	14 907 458
Legal fees	164 883
Repayments	-94 340 373
Balance 31 Aug 2018	27 612 988

ANNEXURE C

FINANCIAL RECONSTRUCTION SUMMARY

MY HIGH LEVEL CERTIFICATE OF BALANCE - SUMMARY OF TOTAL PAYMENTS AND RECEIPTS - PEG HR SOLUTIONS PTY LTD				
ITEM NO	DESCRIPTION	**AMOUNT**		**REMARKS**
		FIRST RAND BANK	**PEG HR / DLAMINI**	
1	Capital Drawn	R46 831 118	R42 436 751,68	The correct "Capital Drawn" amount, see Annexure 8.
2	Initial / Restructure Fees	R3 613 800	R0,00	Included in the "Interest" amount below in terms of the Court Order on Supreme Court of Appeal in Case No. 662/2009 and 500/2010 which codified the Statutory In Duplum Rule; as well as Constitutional Court Order in Case No. CCT61/2014, Annexure 38.
3	Interest	R56 436 102	R42 436 751,68	The "Interest" amount must be equal to the "Capital Drawn" amount in terms of the Court Order on Supreme Court of Appeal in Case No. 662/2009 and 500/2010 which codified the Statutory In Duplum Rule; as well as Constitutional Court Order in Case No. CCT61/2014, Annexure 38.
4	Rates and Taxes Funded	R14 907 458	R9 907 458,00	R5m was paid directly from Friedshelf (RF) 1287 Pty Ltd to Ethekwini Municipality in terms of the agreement in Annexure 9; and the R9 907 458.00 was paid from the proceeds of the sale of erf 2579, 2580 and 2582 Umhlanga Rocks as can be seen in Annexure 2. An amount of R6 920 483.00 was paid to Ethekwini Municipality on the 02 March 2017 (30 days before the transfer); and an amount of R2 986 975.00 was paid to Umhlnaga Ridge Association for Levies on the 12 April 2017 (9 days after the transfer).
5	Legal Fees	R164 883	R0,00	Included in the "Interest" amount below in terms of the Court Order on Supreme Court of Appeal in Case No. 662/2009 and 500/2010 which codified the Statutory In Duplum Rule; as well as Constitutional Court Order in Case No. CCT61/2014.
6	Repayments	-R94 340 373	-R116 643 992,34	Total amount paid by both PEG HR Solutions Pty Ltd (R96 643 992.34) and Friedshelf 1287 (RF) Pty Ltd (R20 000 000.00) to First Rand Bank Limited from inception to the 03 April 2017 when erf 2579, 2580 and 2582 Umhlanga Rocks were transferred from PEG HR Soluions to JT Ross. Annexure 10.
7	Sub-total 1 as per 31 August 2018 (Per FRBL)	R27 612 988	-R21 863 030,98	As at 03 April 2017 which is the date when erf 2579, 2580 and 2582 were transferred from PEG HR Solutions Pty Ltd to JT Ross.
8	Shortfall on sale of erven 2579, 2580 and 2582 Umhlanga Rocks	R0	-R13 644 800,00	As at 03 April 2017. JT Ross paid R70,323,200.00 (being 20 992m2 @ R3350.00/m2) instead of R83,968,000.00 (being 20 992m2 @ R4000.00/m2 - offered by two other Parties, namely Hodari and Eris. See Annexures 12 and 13.
9	**Sub-total 2 as per 31 August 2018 (Per FRB)**	**R27 612 988**	**-R35 507 830,98**	**As at 03 April 2017 which is the date when erf 2579, 2580 and 2582 were transferred from PEG HR Solutions Pty Ltd to JT Ross.**
10	Erf 2583 Umhlanga Rocks (8170m2 @ a market value of R4000.00 per m2)	R0	-R32 680 000,00	As at 03 April 2017. JT Ross paid R70,323,200.00 (being 20992m2 @ R3350.00/m2) instead of R83,968,000.00 (being 20992m2 @ R4000.00/m2 - offered by two other Parties, namely Hodari and Eris. See Annexures 12 and 13
11	Rates & Taxes for erf 2583 Umhlanga Rocks as at 03 April 2017	R0	R4 456 698,76	As at 03 April 2017. Also see Annexure 23 (Ethekwini Municipality Account Number 83330151202).
12	Overpayment of Rates and Taxes to Ethekwini Metro for erf 2579, 2580 and 2583 Umhlanga Rocks, overaid by the FRBL appointed Bowmans as transfering Attorneys	R0	-R582 144,55	Overlooking my appointed transferring attorneys, Webber Wentzel. See Annexure 45
13	Overpayment of Levies for erf 2579, 2580 and 2583 Umhlanga Rocks to Umhlanga Ridge Association, overaid by FRBL appointed Bowmans as transfering Attorneys	R0	-R833 542,65	Overlooking my appointed transferring attorneys, Webber Wentzel. See Annexure 45.
14	**Sub-total 3 as per 31 August 2018 (Per FRB**	**R27 612 988**	**-R65 146 819,42**	**As at 03 April 2017 which is the date when erf 2579, 2580 and 2582 were transferred from PEG HR Solutions Pty Ltd to JT Ross; and erf 2583 Umhlanga Rocks remained. This amount excluses interest and any consequential damages.**

15	Interest from the 03 April 2017 to 13 August 2024		-R87 062 693,26	Interest from 03 April 2017 to 13 August 2024 at prime interest rate plus 2%
16				
17	**Subtotal 4 owing including interest from the 03 April 2017 to 13 August 2024**		**-R152 209 512,68**	**As at 13 August 2024**
18	Interest from the 13 August 2024 to 31 January 2025		-R9 895 822,28	Interest from 13 August 2024 to 31 January 2025 at prime interest rate plus 2%
19				
20	**Subtotal 4 owing including interest from the 03 April 2017 to 13 August 2024**		**-R162 105 334,96**	**Up to 31 January 2025 excluding consequential damages**
21	Consequesntial Damages			From inception to date
22				
23	**Subtotal 5 including censequential damages**			**Including all consequential damages from inception to date**
24	Interest on consequential damages			Total interest on consequential damages at prime interest rate plus 2%
25				
26	**Subtotal 6 owing including consequential damages and interest**			**To date, ...**

ANNEXURE C1

Document Demand Chronology

Chronological record of Petitioner's requests for bank statements and transactional records (2008–2025)

Cover page

Chronological record of Plaintiff's requests for contractual documents, bank statements and transactional records (2008–2024)

EMAIL INDEX TABLE:

DATE	EMAIL NO.	RECIPIENT	DESCRIPTION	ANNEXURE PAGE	REMARKS
19 May 2015	C1.1	Sivuziwe Mzamo - FRBL	Request for PEG HR Contractual Documents		Did not supply documents
26 May 2015	C1.2	Neels Els - FRBL	Requesting Bank Statements		Did not supply bank statements
26 May 2015	C1.3	Neels Els / Aspacia Lethepa - FRBL	Requesting Bank Statements		Did not supply bank statements
01 June 2015	C1.4	Sivuziwe Mzamo - FRBL	Requesting all PEG HR Documents		Did not supply documents
30 July 2021	C1.5	Neels Els - FRBL	Requesting F1287 Bank Statements		Did not supply bank statements
30 July 2021	C1.6	RMB Corporate Banking services	Requesting F1287 Bank Statements		They could not locate bank accounts
06 August 2021	C1.7	EM Dlamini – F1287	Email from Neels Els – FRBL acknowledging receipt of email from EM Dlamini		Acknowledged receipt of request but did not supply documents
23 August 2021	C1.8	Natalie Rodrigues - FRBL	Requesting F1287 Bank Statements		Did not supply bank statements but referred

					me to Neil Goosen
23 August 2021	C1.9	EM Dlamini – F1287	Email from Natalie Rodrigues advising forwarding EM Dlamini request to Neil Goosen – FRBL		Natalie referring me to Neil Goosen
09 September 2021	C1.10	EM Dlamini – F1287	Email from Neil Goosen – FRBL advising EM Dlamini to get Attorneys to request F1287 bank statements from FRBL Attorneys		Neil Goosen telling me to get employ attorneys to request bank statements
09 September 2021	C1.11	EM Dlamini – F1287	Email from Neil Goosen – FRBL advising EM Dlamini to get Attorneys to request F1287 bank statements from FRBL Attorneys		Neil Goosen telling me to get employ attorneys to request bank statements
09 May 2022	C1.12	EM Dlamini – F1287	Email from Neels Els – FRBL advising EM Dlamini to get Attorneys to request F1287 bank statements from FRBL Attorneys		Neil Goosen telling me to get employ attorneys to request bank statements
06 May 2024	C1.13	Mary Vilakazi – FRBL Group CEO	Requesting PEG HR and F1287 Documents		Did not supply documents
06 May 2024	C1.14	Mary Vilakazi – FRBL Group	Requesting PEG HR and		Did not supply documents

		CEO and Barbi Mulder – FRBL Group CEO PA	F1287 Documents		
20 November 2024	C1.15	EM Dlamini – F1287	Natalie Rodrigues – FRBL advising that her colleagues were attending to EM Dlamini – F1287 request		Did not supply documents
27 November 2024	C1.16	Natalie Rodrigues - FRBL	Following up on outstanding documents and response to prior email request		Did not supply documents
29 November 2024	C1.17	EM Dlamini - PEG HR, F1287	Cannot locate bank records		Group CEO admitting that there were documents in the FRBL system. Jean du Plessis of FRBL sending a Capital Redemption Reserve Account with zero from inception to November 2024

ANNEXURE C1.1

Document Demand Chronology

Chronological record of Petitioner's requests for bank statements and transactional records (2008–2025)

RE: PEG HR Solutions Pty Ltd

19/05/2015 17:54

From: "Mbuso Dlamini" <mbuso@icon.co.za>

To: "Mzamo, Sivuziwe" <Sivuziwe.Mzamo@rmb.co.za>

Cc: "Boake, Ruth" <Ruth.Boake@rmb.co.za>,"du Plessis, Jean" <Jean.duPlessis@rmb.co.za>,"Downes, David" <David.Downes@rmb.co.za>

Sivu

I require a copy of all contractual documents that you have in the PEG HR Solutions file.

Kindly advise when and how you would make them available.

Kind Regards
Mbuso

From: Mzamo, Sivuziwe [mailto:Sivuziwe.Mzamo@rmb.co.za]
Sent: 19 May 2015 03:10 PM
To: mbuso@icon.co.za
Cc: Boake, Ruth; du Plessis, Jean; Downes, David
Subject: RE: PEG HR Solutions Pty Ltd

Hi Mbuso,

I hope this email finds you well.

What exactly would you like in this file? Are you talking about all of Peg HR's statements? If I remember correctly, this was sent to you late last year, at your request.

Kind regards,

Sivuziwe (Sivu) Mzamo
Investment Banking
Real Estate

cid:image001.png@01CB144E.474A5710

Rand Merchant Bank
Telephone +27 11 282 4063
Switchboard +27 11 282 8000
Facsimile +27 11 282 4989
Mobile +27 72 223 7471
www.rmb.co.za

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: 18 May 2015 17:31
To: Mzamo, Sivuziwe
Subject: PEG HR Solutions Pty Ltd

Sivu

I hope that you are fine.

Kindly make me a copy of PEG HR Solutions file so that we may compare it with what we have.

Kindly either :

1. Scan and email the documents to me at your earliest convenience; or
2. Compie a file and let me know once it is done so that I may collect it before our meeting of the 26th May 2015; or
3. I will collect the file at the meeting of the 26th May 2015

Kind Regards
Mbuso

This e-mail is subject to a disclaimer, available at

http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

Attachments:

- image001.png

Annexure C1.2

Email plus Letter sent to Neels Els of FRBL Requesting that F1287 Bank Statements be sent out to F1287 monthly from 01 June 2015

Mbuso

From: Mbuso Dlamini <mbuso@icon.co.za>
Sent: Tuesday, 26 May 2015 23:13
To: 'Els, Neels'
Cc: 'Anne Klein'; 'Celeste Barnard'; 'Brian Coombe'; 'Maluleke, Lorraine'; 'Lethepa, Aspacia'; 'Bester Ngoepe'
Subject: RE: Friedshelf 1287 (RF) (Pty Ltd covenants December 2014 and March 2015
Attachments: Scan1.PDF

Neels

Attached herein is the letter as discussed at the meeting today.

Kind Regards
M Dlamini

FRIEDSHELF 1287 (RF) PROPRIETARY LIMITED

REGISTRATION NO: 2011/125738/07

1ST FLOOR
32 FRICKER ROAD
ILLOVO
JOHANNESBURG
2196

PO BOX 781396
SANDTON
2146

TEL: 011 530 8400

FAX: 011 530 8410

RAND MERCHANT BANK

TO WHOM IT MAY CONCERN

26th MAY 2015

Dear Sir / Madam

RE : DISTRIBUTION OF FRIEDSHELF BANK STATEMENTS ON A MONTHY BASIS

We hereby request that you send to us, by email, Friedshelf bank statements on a monthly basis and copy the following at Maitland :

1. Anne Klein at anne.klein@maitland.com
2. Celeste Barnard at celeste.barnard@maitland.com
3. Brian Coombe at brian.coombe@maitland.com

We would appreciate it if you could kindly start with this distribution from the 01st June 2015.

Yours Sincerely

Mbuso Dlamini

CC : Anne Klein; Celeste Barnard; Brian Coombe; Bester Ngoepe

Annexure C1.3

Email sent to Neels Els of FRBL Requesting that he sends F1287 Bank Statements from Inception to 30 April 2015

RE: Friedshelf 1287 (RF) (Pty Ltd covenants December 2014 and March 2015

26/05/2015 23:16

From: "Mbuso Dlamini" <mbuso@icon.co.za>

To: "Els, Neels" <Neels.Els@rmb.co.za>

Cc: "Anne Klein" <Anne.Klein@maitlandgroup.com>,"Celeste Barnard" <Celeste.Barnard@maitlandgroup.com>,"Brian Coombe" <brian.coombe@maitlandgroup.com>,"Maluleke, Lorraine" <Lorraine.Maluleke@rmb.co.za>,"Lethepa, Aspacia" <Aspacia.Lethepa@rmb.co.za>

Aspacia

As discussed at the meeting today, kindly send us (by email) Friedshelf bank statements from inception to the 30th April 2015; and thereafter monthly as per the letter attached to my previous email.

Kind Regards
M Dlamini

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: 26 May 2015 11:13 PM
To: 'Els, Neels'
Cc: 'Anne Klein'; 'Celeste Barnard'; 'Brian Coombe'; 'Maluleke, Lorraine'; 'Lethepa, Aspacia'; 'Bester Ngoepe'
Subject: RE: Friedshelf 1287 (RF) (Pty Ltd covenants December 2014 and March 2015

Neels

Attached herein is the letter as discussed at the meeting today.

Kind Regards
M Dlamini

Annexure C1.4

Email sent to Sivuziwe Mzamo of FRBL Requesting that PEG HR Collects a copy of the full Transactional Records / Documents of PEG HR from FRBL

RE: PEG HR Solutions Pty Ltd

01/06/2015 08:38

From: "Mbuso Dlamini" <mbuso@icon.co.za>

To: "Mzamo, Sivuziwe" <Sivuziwe.Mzamo@rmb.co.za>

Cc: "Boake, Ruth" <Ruth.Boake@rmb.co.za>,"du Plessis, Jean" <Jean.duPlessis@rmb.co.za>,"Downes, David" <David.Downes@rmb.co.za>

Sivu

The last meeting refer.

Kindly advise if and when I can come and pick up the file.

I hope you have had a chance to go through it and I can pick it up at your earliest convenience.

Kind Regards
Mbuso

From: Mzamo, Sivuziwe [mailto:Sivuziwe.Mzamo@rmb.co.za]
Sent: 19 May 2015 03:10 PM
To: mbuso@icon.co.za
Cc: Boake, Ruth; du Plessis, Jean; Downes, David
Subject: RE: PEG HR Solutions Pty Ltd

Hi Mbuso,

I hope this email finds you well.

What exactly would you like in this file? Are you talking about all of Peg HR's statements? If I remember correctly, this was sent to you late last year, at your request.

Kind regards,

Sivuziwe (Sivu) Mzamo
Investment Banking
Real Estate

cid:image001.png@01CB144E.474A5710

Rand Merchant Bank
Telephone +27 11 282 4063
Switchboard +27 11 282 8000
Facsimile +27 11 282 4989
Mobile +27 72 223 7471
www.rmb.co.za

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: 18 May 2015 17:31
To: Mzamo, Sivuziwe
Subject: PEG HR Solutions Pty Ltd

Sivu

I hope that you are fine.

Kindly make me a copy of PEG HR Solutions file so that we may compare it with what we have.

Kindly either :

1. Scan and email the documents to me at your earliest convenience; or
2. Compie a file and let me know once it is done so that I may collect it before our meeting of the 26th May 2015; or
3. I will collect the file at the meeting of the 26th May 2015

Kind Regards
Mbuso

This e-mail is subject to a disclaimer, available at

http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

Attachments:

- image001.png

Annexure C1.5

Email and Letter Sent by Nozuko Attorneys Requesting F1287 Bank Statements from FRBL's Neels Els

mbuso.dlamini@palacegroup.co.za

From: Given <given@nozukonxusaniinc.co.za>
Sent: Friday, 30 July 2021 09:41
To: neels.els@rmb.co.za; jean.duplessis@rmb.co.za
Cc: mbuso.dlamini@palacegroup.co.za
Subject: FW: FRIENDSHELF 1287 RMB ACCOUNTS
Attachments: Letter to RMB.pdf

Good day

We have not received neither an acknowledgment nor a reply to the above letter.

We await the requested statements from you as this matter is pressing to our client.

Regards

Mr Given Chavalala

NOZUKO

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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From: Given [mailto:given@nozukonxusaniinc.co.za]
Sent: 27 July 2021 03:44 PM

To: 'jean.duplessis@rmb.co.za' <jean.duplessis@rmb.co.za>
Subject: FW: FRIENDSHELF 1287 RMB ACCOUNTS

Good day

Kindly find attached hereto a letter for your attention.

Regards

Mr Given Chavalala

NOZUKO NXUSANI INC
ATTORNEYS & CONVEYANCERS

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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From: Given [mailto:given@nozukonxusaniinc.co.za]
Sent: 27 July 2021 03:03 PM
To: 'neels.else@rmb.co.za' <neels.else@rmb.co.za>; 'jean.duplessis@co.za' <jean.duplessis@co.za>
Cc: 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: FRIENDSHELF 1287 RMB ACCOUNTS

Good day

Kindly find attached hereto a letter for your attention.

Regards

Mr Given Chavalala

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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NOZUKO
NXUSANI INC
ATTORNEYS & CONVEYANCERS

KEMPTON PARK OFFICE
THE WHITE HOUSE BUILDING
WEST WING 8, GROUND FLOOR
40 KERK STREET CNR MONUMENT ROAD
KEMPTON PARK 1619

POSTNET SUITE 169
PRIVATE BAG X27
KEMPTON PARK 1620
DOCEX 47, KEMPTON PARK
REGISTRATION NO.: 2003/025348/21

27 July 2021

Our Ref: Mr TG Chavalala/MAT7870 *Your Ref:*

RAND MERCHANT BANK
PER EMAIL: NEELS.ELSE@RMB.CO.ZA
CC: JEAN.DUPLESSIS@RMB.CO.ZA

Dear Sir

RE: FRIEDSHELF 1287 (PTY) LTD: - BANK ACCOUNTS

1. We confirm to be acting on behalf of Friedshelf 1287 (Pty) Ltd (our client).

2. We are instructed by our client to request bank statements of the accounts stated herein below from inception of the accounts to date.

   2.1 Account number SMT-DC11A00276;
   2.2 Account number SMT-DC11A00277; and
   2.3 Any other account held in the name of our client.

3. The statements can be emailed to the writer hereof, alternatively be collected from your offices.

4. Our client's director, Mr Mbuso Dlamini attempted to get the statements from the offices of RMB but was informed to contact the account manager.

5. We await to hear from you.

Yours faithfully

_____

NOZUKO NXUSANI INCORPORATED
PER: MR GIVEN CHAVALALA

Telephone Number: +27 11 975 5666 | Fax Number: +27 11 975 0707

Executive Director: Noz Nxusani | **Managing Director:** Selemo Makubung | **Operations Manager:** Frank Koko
Directors: Yoshira Ramjee | Given Chavalala | Mr Barry Moyana
Senior Associates: Portia Banda | Godfrey Mohlala | Themba Malandela | Khuduga Phokwane | Neema Mchau
Associates: Mantsonyana Mangokoane | Abner Mabaso | Mmabatho Potelo | Yolanda Lusithi | Kefiloe Ramela-Mkhwanazi
Email: info@nozukonxusaniinc.co.za | **Web:** www.noznxusaniinc.co.za

Annexure C1.6

Email sent to RMB Corporate Banking Services Requesting F1287 Bank Statements

Request for Friedshelf 1287 Pty Ltd Bank Statements : Call (12h53 - 30 July 2021) Reference Number 1-3827701651

30/07/2021 13:21

From: "Mbuso Dlamini" <mbuso@icon.co.za>

To: services@rmb.co.za

Cc: mbuso@icon.co.za

Good Day RMB Corporate Banking services Team

I called in later and spoke to Kasturi; who diligently assisted me.

Kindly send me the following bank statements for the above mentioned company from inception to date :

1. Collection Account Number SMT-DC11A00276 (see the attached copy);
2. Operating Account Number SMT-DC11A00277 (not attached); and
3. Loan Account Number ….

I am the sole director of the company.

Please revert urgently.

Kind Regards
Mbuso Dlamini
Director
Friedshelf 1287 Pty Ltd
0826060492

Attachments:

- Chameleon-AccStatementSMT1352400.pdf

Annexure C1.7

Response from FRBL's Neels Els to Email Sent by Nozuko Attorneys

mbuso.dlamini@palacegroup.co.za

From: Els, Neels <Neels.Els@rmb.co.za>
Sent: Friday, 06 August 2021 13:43
To: Given; du Plessis, Jean
Cc: mbuso.dlamini@palacegroup.co.za
Subject: RE: FRIENDSHELF 1287 RMB ACCOUNTS - [External Email]

Hi Given,

We acknowledge receipt of the email below dated 30 July 2021.

We have requested the statements and will send these through in due course.

Regards,

NEELS ELS
PRINCIPAL INVESTMENTS

CORPORATE AND INVESTMENT BANKING

Direct Line +27 11 282 8176
Mobile +27 83 679 6201
e-mail neels.els@rmb.co.za
Website rmb.co.za

RMB a division of FirstRand Bank Limited, is an Authorised Financial Services and Credit Provider NCRCP20. Reg. No. 1929/001225/06.

From: Given <given@nozukonxusaniinc.co.za>
Sent: Friday, July 30, 2021 9:41 AM
To: Els, Neels <Neels.Els@rmb.co.za>; du Plessis, Jean <Jean.duPlessis@rmb.co.za>
Cc: mbuso.dlamini@palacegroup.co.za
Subject: FW: FRIENDSHELF 1287 RMB ACCOUNTS - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good day

We have not received neither an acknowledgment nor a reply to the above letter.

We await the requested statements from you as this matter is pressing to our client.

Regards

Mr Given Chavalala

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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From: Given [mailto:given@nozukonxusaniinc.co.za]
Sent: 27 July 2021 03:44 PM
To: 'jean.duplessis@rmb.co.za' <jean.duplessis@rmb.co.za>
Subject: FW: FRIENDSHELF 1287 RMB ACCOUNTS

Good day

Kindly find attached hereto a letter for your attention.

Regards

Mr Given Chavalala

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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From: Given [mailto:given@nozukonxusaniinc.co.za]
Sent: 27 July 2021 03:03 PM
To: 'neels.else@rmb.co.za' <neels.else@rmb.co.za>; 'jean.duplessis@co.za' <jean.duplessis@co.za>
Cc: 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: FRIENDSHELF 1287 RMB ACCOUNTS

Good day

Kindly find attached hereto a letter for your attention.

Regards

Mr Given Chavalala

NOZUKO
NXUSANI INC
ATTORNEYS & CONVEYANCERS

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
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Annexure C1.8

Email Sent to FRBL's Natalie Rodrigues Requesting Bank Statements for F1287

RE: Requesting bank statements - [External Email]

23/08/2021 16:17

From: "Mbuso Dlamini" <mbuso@icon.co.za>

To: "Rodrigues, Natalie" <Natalie.Rodrigues@fnb.co.za>,mbuso.dlamini@palacegroup.co.za

Cc: "Veress, Klarli" <Klarli.Veress@rmb.co.za>

Good Day Natalie

I am looking for bank statements for all bank accounts of Friedshelf 1287 Pty Ltd (Registration Number 2011/125738/07) from inception to date.

Kindly assist as soon as possible; and if you are not able to assist, let me know as soon as possible.

Urgent.

Kind Regards
Mbuso Dlamini
Director
Friedshelf 1287 Pty Ltd

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Monday, 23 August 2021 11:44
To: mbuso.dlamini@palacegroup.co.za
Cc: mbuso@icon.co.za; Veress, Klarli <Klarli.Veress@rmb.co.za>
Subject: FW: Requesting bank statements - [External Email]

Good day Mr Dhlamini

Thank you for taking my call. As discussed, kindly provide me with your account details so that we can assist.

Please also provide period for the request.

Kind regards
Natalie Rodrigues
FNB Commercial

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, August 21, 2021 6:01 PM
To: Veress, Klarli <Klarli.Veress@rmb.co.za>
Cc: mbuso@icon.co.za
Subject: Requesting bank statements - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Klarli

I am sending you this communication in order to request you or the Managing Director / Chief Executive Officer can assist me get bank statements for my company which has bank accounts at RMB.

I am the sole director and sole signatory on these bank accounts but I have not been able to get the said bank statements for the company despite several requests that I have sent to RMB. I have been told to go FNB, which I have done; and FNB sends me back to RMB.

Is there any way that you and / or the Managing Director / Chief Executive Officer of RMB can assist me obtain these bank statements? Kindly advise at your (MD / CEO) earliest convenience; or is there anybody else who can assist me with the said bank statements?

We trust that you wil entertain our request; and wait for your favourable response as soon as possible.

Kind Regards
Mbuso Dlamini
0826060492

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If you are unable to access our website, please contact us to send you a copy of the email disclaimer or privacy notice.

Annexure C1.9

Response from FRBL's Natalie Rodrigues on F1287 Bank Statements

mbuso@icon.co.za

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Monday, 23 August 2021 18:06
To: mbuso@icon.co.za; mbuso.dlamini@palacegroup.co.za; Goosen, Neil
Cc: Veress, Klarli
Subject: RE: Requesting bank statements - [External Email]

Hi Mr Dhlamini

I have forwarded your request to Neil Goosen.
Apologies for the delay from our side. I see that your request was logged on the 5th of August.

@Goosen, Neil, please advise timelines.

Kind regards
Natalie

From: Mbuso Dlamini <mbuso@icon.co.za>
Sent: Monday, 23 August 2021 16:18
To: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>; mbuso.dlamini@palacegroup.co.za
Cc: Veress, Klarli <Klarli.Veress@rmb.co.za>
Subject: RE: Requesting bank statements - [External Email]

Good Day Natalie

I am looking for bank statements for all bank accounts of Friedshelf 1287 Pty Ltd (Registration Number 2011/125738/07) from inception to date.

Kindly assist as soon as possible; and if you are not able to assist, let me know as soon as possible.

Urgent.

Kind Regards
Mbuso Dlamini
Director
Friedshelf 1287 Pty Ltd

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Monday, 23 August 2021 11:44
To: mbuso.dlamini@palacegroup.co.za
Cc: mbuso@icon.co.za; Veress, Klarli <Klarli.Veress@rmb.co.za>
Subject: FW: Requesting bank statements - [External Email]

Good day Mr Dhlamini

Thank you for taking my call. As discussed, kindly provide me with your account details so that we can assist.

Please also provide period for the request.

Kind regards

Natalie Rodrigues
FNB Commercial

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, August 21, 2021 6:01 PM
To: Veress, Klarli <Klarli.Veress@rmb.co.za>
Cc: mbuso@icon.co.za
Subject: Requesting bank statements - [External Email]

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Good Day Klarli

I am sending you this communication in order to request you or the Managing Director / Chief Executive Officer can assist me get bank statements for my company which has bank accounts at RMB.

I am the sole director and sole signatory on these bank accounts but I have not been able to get the said bank statements for the company despite several requests that I have sent to RMB. I have been told to go FNB, which I have done; and FNB sends me back to RMB.

Is there any way that you and / or the Managing Director / Chief Executive Officer of RMB can assist me obtain these bank statements? Kindly advise at your (MD / CEO) earliest convenience; or is there anybody else who can assist me with the said bank statements?

We trust that you wil entertain our request; and wait for your favourable response as soon as possible.

Kind Regards
Mbuso Dlamini
0826060492

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Annexure C1.10

Response from FRBL's Neil Goosen on F1287 Bank Statements

mbuso@icon.co.za

From: Goosen, Neil <Neil.Goosen@rmb.co.za>
Sent: Thursday, 09 September 2021 10:11
To: mbuso.dlamini@palacegroup.co.za
Cc: Veress, Klarli; mbuso@icon.co.za; du Plessis, Jean
Subject: RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

Hi Mbuso

Correction to my comment below, your attorneys should contact our attorneys i.e. not the bank directly.

Regards

Neil Goosen Coverage Banker
Banking Division South Africa
Direct line 0112824484 **Mobile** 0824666681

RMB
CORPORATE AND INVESTMENT BANKING
www.rmb.co.za

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From: Goosen, Neil
Sent: Thursday, September 9, 2021 10:05 AM
To: mbuso.dlamini@palacegroup.co.za
Cc: Veress, Klarli <Klarli.Veress@rmb.co.za>; mbuso@icon.co.za; du Plessis, Jean <Jean.duPlessis@rmb.co.za>
Subject: RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

Hi Mbuso

I suggest you approach your attorneys in this regard and request the attorneys to approach the bank.

We unfortunately cannot assist you directly.

Regards

Neil Goosen Coverage Banker

Banking Division South Africa
Direct line 0112824484 **Mobile** 0824666681

RMB

CORPORATE AND INVESTMENT BANKING
www.rmb.co.za

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From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Thursday, September 9, 2021 9:59 AM
To: Goosen, Neil <Neil.Goosen@rmb.co.za>
Cc: Veress, Klarli <Klarli.Veress@rmb.co.za>; mbuso@icon.co.za
Subject: RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Klarli, Neil

It has been almost two weeks since I sent the below email request to you; and to date you have not sent me the bank statements, from inception to date, for Friedshelf 1287 Pty Ltd.

I am again pleading with you to send them to me by close of business this Friday, 10th September 2021. Please urgently send them to my email address : mbuso.dlamini@palacegroup.co.za and copy to mbuso@icon.co.za.

If I do not receive these statements from you by close of business on Friday 10th September 2021, I will have no choice but seek external assistance to get the statements from RMB.

I have made several requests before and I request that you kindly send these to me without any further delay.

Also please let me know if you do not intend to send them to me.

I also request you to arrange that I get online access to these accounts because I am the registered director of the company. Is there nay reason why I am not allowed online and any other access to these bank accounts and statements since inception of the bank accounts? Kindly explain.

This is my last plea to you to assist send me with these bank statements to mbuso.dlamini@palacegroup.co.za, CC : mbuso@icon.co.za. It s also my last plea to ask you to arrange for me to have online access to all Friedshelf 1287 Pty Ltd on the RMB and / or FNB platforms.

If the MD’s office cannot help me with this matter, please advise me on where to go to get these statements.

I await your amicable resolution to this problem. It is a big problem for me and Friedshelf 1287 Pty Ltd.

Kind Regards
Mbuso Dlamini

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, 28 August 2021 10:02
To: 'Goosen, Neil' <Neil.Goosen@rmb.co.za>
Cc: 'Veress, Klarli' <Klarli.Veress@rmb.co.za>; 'Given Chavalala' <given@nozukonxusaniinc.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: Requesting Bank Statements for Friedshelf 1287 Pty Ltd

Good Day Mr Goosen

Our previous correspondence as well as our various attempts to get bank statements of the above mentioned company refer.

We have tried several channels (RMB office in Sandton, Account Manager, FNB Branches, FNB Customer Services, RMB Customer Services, etc.) to get the following bank statements (from inception to date) for the above mentioned company for a long time :

1. Loan account;
2. All and any other accounts opened at RMB or FNB or any other bank.

If we do not receive these bank statements by the close of business day on the 31st August 2021, we will have no choice but to request external assistance do get same.

Kind Regards
Mbuso Dlamini

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Annexure C1.11

Second Response from FRBL's Neil Goosen on F1287 Bank Statements

RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

09/09/2021 10:13

From: "Goosen, Neil" <Neil.Goosen@rmb.co.za>

To: mbuso.dlamini@palacegroup.co.za

Cc: "Veress, Klarli" <Klarli.Veress@rmb.co.za>,mbuso@icon.co.za,"du Plessis, Jean" <Jean.duPlessis@rmb.co.za>

Hi Mbuso

Correction to my comment below, your attorneys should contact our attorneys i.e. not the bank directly.

Regards

Neil Goosen Coverage Banker
Banking Division South Africa
Direct line 0112824484 **Mobile** 0824666681

CORPORATE AND INVESTMENT BANKING
www.rmb.co.za

RMB a division of FirstRand Bank Limited, is an Authorised Financial Services and Credit Provider NCRCP20. Reg. No. 1929/001225/06.

From: Goosen, Neil
Sent: Thursday, September 9, 2021 10:05 AM
To: mbuso.dlamini@palacegroup.co.za

Cc: Veress, Klarli <Klarli.Veress@rmb.co.za>; mbuso@icon.co.za; du Plessis, Jean <Jean.duPlessis@rmb.co.za>
Subject: RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

Hi Mbuso

I suggest you approach your attorneys in this regard and request the attorneys to approach the bank.

We unfortunately cannot assist you directly.

Regards

Neil Goosen Coverage Banker
Banking Division South Africa
Direct line 0112824484 **Mobile** 0824666681

CORPORATE AND INVESTMENT BANKING
www.rmb.co.za

RMB a division of FirstRand Bank Limited, is an Authorised Financial Services and Credit Provider NCRCP20. Reg. No. 1929/001225/06.

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Thursday, September 9, 2021 9:59 AM
To: Goosen, Neil <Neil.Goosen@rmb.co.za>
Cc: Veress, Klarli <Klarli.Veress@rmb.co.za>; mbuso@icon.co.za
Subject: RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Klarli, Neil

It has been almost two weeks since I sent the below email request to you; and to date you have not sent me the bank statements, from inception to date, for Friedshelf 1287 Pty Ltd.

I am again pleading with you to send them to me by close of business this Friday, 10th September 2021. Please urgently send them to my email address : mbuso.dlamini@palacegroup.co.za and copy to mbuso@icon.co.za.

If I do not receive these statements from you by close of business on Friday 10th September 2021, I will have no choice but seek external assistance to get the statements from RMB.

I have made several requests before and I request that you kindly send these to me without any further delay.

Also please let me know if you do not intend to send them to me.

I also request you to arrange that I get online access to these accounts because I am the registered director of the company. Is there nay reason why I am not allowed online and any other access to these bank accounts and statements since inception of the bank accounts? Kindly explain.

This is my last plea to you to assist send me with these bank statements to mbuso.dlamini@palacegroup.co.za, CC : mbuso@icon.co.za. It s also my last plea to ask you to arrange for me to have online access to all Friedshelf 1287 Pty Ltd on the RMB and / or FNB platforms.

If the MD's office cannot help me with this matter, please advise me on where to go to get these statements.

I await your amicable resolution to this problem. It is a big problem for me and Friedshelf 1287 Pty Ltd.

Kind Regards
Mbuso Dlamini

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, 28 August 2021 10:02
To: 'Goosen, Neil' <Neil.Goosen@rmb.co.za>
Cc: 'Veress, Klarli' <Klarli.Veress@rmb.co.za>; 'Given Chavalala' <given@nozukonxusaniinc.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: Requesting Bank Statements for Friedshelf 1287 Pty Ltd

Good Day Mr Goosen

Our previous correspondence as well as our various attempts to get bank statements of the above mentioned company refer.

We have tried several channels (RMB office in Sandton, Account Manager, FNB Branches, FNB Customer Services, RMB Customer Services, etc.) to get the following bank statements (from inception to date) for the above mentioned company for a long time :

1. Loan account;
2. All and any other accounts opened at RMB or FNB or any other bank.

If we do not receive these bank statements by the close of business day on the 31st August 2021, we will have no choice but to request external assistance do get same.

Kind Regards
Mbuso Dlamini

This e-mail is subject to a disclaimer, available at

http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

Attachments:

- image001.jpg
- image002.jpg
- image003.jpg
- image004.jpg
- image005.jpg
- image006.jpg
- image007.jpg

Annexure C1.12

Response from FRBL's Neels Els on F1287
Bank Statements

mbuso.dlamini@palacegroup.co.za

From: Els, Neels <Neels.Els@rmb.co.za>
Sent: Monday, 09 May 2022 15:38
To: mbuso.dlamini@palacegroup.co.za
Cc: du Plessis, Jean
Subject: RE: FRIENDSHELF 1287 RMB BANK ACCOUNTS - [External Email]

Hi Mbuso,

Hope you are also doing well.

I've been advised that there are various ongoing legal actions between FirstRand Bank Limited and yourself / your related parties.

As such, can you please ask your appointed attorneys to approach FirstRand Bank's appointed attorneys for the information.

Regards,

Neels Els
Principal Investments
Mobile +27 83 679 6201
Email neels.els@rmb.co.za

RMB
CORPORATE AND INVESTMENT BANKING
www.rmb.co.za

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, May 9, 2022 2:04 PM
To: Els, Neels <Neels.Els@rmb.co.za>
Cc: mbuso.dlamini@palacegroup.co.za
Subject: FRIENDSHELF 1287 RMB BANK ACCOUNTS - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Dear Neels

I hope that you are fine.

Kindly send me the latest bank statements for the following Friedshelf 1287 Pty Ltd bank accounts from inception (the 01 January 2011) to date :

1. Collection Account Number SMT-DC11A00276
2. Operating Account Number SMT-DC11A00277

3. Deposit Account Number SMT-DC15J00340
4. Account Number 0000003443
5. Actom Pref Share 3444 Account Number 0000003444
6. Asset Account Number DC11B00217
7. Asset Account Number DC11B00216
8. Tax Provision Liability Account Number SMT-DC11B00205
9. Loan Account Number ??????
10. Any other Friedshelf 1287 Pty Ltd bank accounts held at RMB.

Waiting to receive the above as soon as possible.

Kind Regards
Mbuso Dlamini

This e-mail is subject to a disclaimer, available at

http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

Annexure C1.13

Email to FRBL's Group CEO Requesting Bank Records of PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd

FW: Very important First Rand Bank Limited documents

06/05/2024 13:02

From: "Mbuso" <mbuso@icon.co.za>

To: mary.vilakazi@firstrand.co.za

Cc: "Mulder, Barbi" <barbi.mulder@firstrand.co.za>,busi.zwane@firstrand.co.za,admin@palacegroup.co.za

---

Good Day Ms Mary Vilakazi

It has been two weeks since we requested the below information from First Rand Bank Limited; but we have not received anything to date.

When can we expect to receive the information from First Rand Bank Limited.

Kind Regards
Mbuso Dlamini

From: Mbuso <mbuso@icon.co.za>
Sent: Monday, April 22, 2024 10:33 AM
To: 'mary.vilakazi@firstrand.co.za' <mary.vilakazi@firstrand.co.za>
Cc: 'busi.zwane@firstrand.co.za' <busi.zwane@firstrand.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: RE: Very important First Rand Bank Limited documents

FIRST RAND BANK LIMITED
Attention : COO / CEO - Ms Mary Vilakazi (011 282 8788)
4th Floor, Merchant Place
Sandton.

I hope that you are fine.

Kindly assist us with the following as soon as possible.

1. PEG HR Solutions Pty Ltd:
    a. Account Name “Asset”, bank account number SMT-LC08K00082:
        i. Attachment 1 : Missing page 18 covering the period 19 July 2012 to 20 August 2012 as shown missing in attachment 1; please send us this missing page as soon as possible.
        ii. Attachment 2 : Missing page 23 covering the period 20 January 2013 to 28 March 2013 as shown missing in attachment 2; please send us this missing page as soon as possible.

    b. Account Name “PEG HR Solutions 2527 Term”, bank account number 0000002527:
        i. Attachment 3 : The two pages covering the period from 18 November 2014 to 05 September 2018. Please explain what happened in this bank account / statement from the 1st of November 2015 to the 2nd of November 2015. Who manipulated

the bank statement, who was paid this money, who gave the instruction for this to be done because I did not give any consent or permission for this to be done on my (Peg HR Solutions Pty Ltd) bank account.

c. Attachment 4 : Bank account / statement “PEG HR Solutions 2527 Term”, account number 0000002527. What happened to the money (R5m) that was taken out of this bank account on or about the 18 June 2014 and authorized that money be taken out of this bank account, because I did not do so. On a different but related matter to this attachment 4, is the second page of this attachment 4 supposed to be page 18 of the bank statement, i.e. a continuation of the bank statement? Please clarify and confirm.

d. Please urgently send me all bank statements of PEG HR Solutions Pty Ltd, which include but are not limited to the following, from inception to date:
   i. Account Name “Loan Account”.
   ii. Account Name “Past Due”, account number SMT-LC11I00171.
   iii. Account Name “PEG HR Solutions 2527 Term”, account number 0000002527.
   iv. Account Name “PEG HR Term Loan 7298 R25m”, account number 0000007298.
   v. Any other bank accounts held at First Rand Bank Limited in the name of PEG HR Solutions Pty Ltd.

2. Friedshelf 1287 Pty Ltd
   a. Please send me Friedshelf 1287 Pty Ltd bank statements which include but are not limited to the following, from inception to date:
      i. Loan Account.
      ii. Collection Account Number SMT – DC11A00276.
      iii. Operating Account Number SMT – DC11A00277.
      iv. Deposit Account Number SMT – DC15J00340.
      v. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Thanking you and your team in advance.

Kind Regards
Mbuso Dlamini
0826060492

Attachments:
1. Account Name- Asset- bank account number SMT-LC08K00082 - Missing Page 18.
2. Account Name – Asset- bank account number SMT-LC08K00082 - Missing Page 23.
3. Account Name – PEG HR Solutions 2527 Term – bank account number 0000002527, the two pages covering period 18 November 2014 to 05 September 2018.
4. Account Name – PEG HR Solutions 2527 Term – bank account number 0000002527 - Bank statements - PEG HR Solutions 2527 Term - R5m out of the bank account.

CC : Ms Busi Zwane (011 282 8370)

Attachments:

- Attachment 1 - Bank Statements - Asset - Account No. SMT-LC08K00082 - Missing Page 18.pdf
- Attachment 2 - Bank Statements - Asset - Account No. SMT-LC08K00082 - Missing Page 23.pdf
- Attachment 3 - Bank statements - PEG HR Solutions 2527 Term - from 18 Nov 2014 to 05 Sep 2018.pdf

- Attachment 4 - Bank statements - PEG HR Solutions 2527 Term - R5m out of the bank account.pdf

Annexure C1.14

Email to FRBL's Group CEO's PA after Response from Group CEO's PA Regarding Request for Bank Records of PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd

RE: Very important First Rand Bank Limited documents - [External Email]

06/05/2024 16:12

From: "Mbuso" <mbuso@icon.co.za>

To: "Mulder, Barbi" <barbi.mulder@firstrand.co.za>,"Vilakazi, Mary" <Mary.Vilakazi@firstrand.co.za>

Cc: "Zwane, Busi" <Busi.Zwane@firstrand.co.za>,admin@palacegroup.co.za

Good afternoon Barbi

Mr Mashaba responded to a completely different matter.

I have not discussed the matters raised in this email with Mr Mashaba.

Mr Mashaba does not know the contents of this email.

Must I send the email to him? Please advise so that I can send the email to him as soon as possible.

Kind Regards
Mbuso.

From: Mulder, Barbi <barbi.mulder@firstrand.co.za>
Sent: Monday, May 6, 2024 3:56 PM
To: mbuso@icon.co.za; Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Zwane, Busi <Busi.Zwane@firstrand.co.za>; admin@palacegroup.co.za
Subject: RE: Very important First Rand Bank Limited documents - [External Email]

Good afternoon Mr Dlamini – thank you for your email. I confirm that Mr Mashaba responded to your email on Wednesday 24 April 2024 at 2:18pm.

Kind regards,

Barbara Mulder | EXECUTIVE PA TO MARY VILAKAZI (CEO) | FirstRand Limited
4th Floor, 4 Merchant Place, Corner Fredman Drive and Rivonia Road, Sandton, 2196
T +27 11 282 8788 | **M** +27 79 492 5329
barbi.mulder@firstrand.co.za | **www.firstrand.co.za**

Certain entities within the FirstRand group are authorised financial services and credit providers.
Please consider the environment before printing.

From: Mbuso <mbuso@icon.co.za>
Sent: Monday, May 6, 2024 1:03 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; Zwane, Busi <Busi.Zwane@firstrand.co.za>; admin@palacegroup.co.za
Subject: FW: Very important First Rand Bank Limited documents - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Ms Mary Vilakazi

It has been two weeks since we requested the below information from First Rand Bank Limited; but we have not received anything to date.

When can we expect to receive the information from First Rand Bank Limited.

Kind Regards
Mbuso Dlamini

From: Mbuso <mbuso@icon.co.za>
Sent: Monday, April 22, 2024 10:33 AM
To: 'mary.vilakazi@firstrand.co.za' <mary.vilakazi@firstrand.co.za>
Cc: 'busi.zwane@firstrand.co.za' <busi.zwane@firstrand.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: RE: Very important First Rand Bank Limited documents

FIRST RAND BANK LIMITED
Attention : COO / CEO - Ms Mary Vilakazi (011 282 8788)
4th Floor, Merchant Place
Sandton.

I hope that you are fine.

Kindly assist us with the following as soon as possible.

1. PEG HR Solutions Pty Ltd:
    a. Account Name “Asset”, bank account number SMT-LC08K00082:
        i. Attachment 1 : Missing page 18 covering the period 19 July 2012 to 20 August 2012 as shown missing in attachment 1; please send us this missing page as soon as possible.

ii. Attachment 2 : Missing page 23 covering the period 20 January 2013 to 28 March 2013 as shown missing in attachment 2; please send us this missing page as soon as possible.

b. Account Name “PEG HR Solutions 2527 Term”, bank account number 0000002527:
   i. Attachment 3 : The two pages covering the period from 18 November 2014 to 05 September 2018. Please explain what happened in this bank account / statement from the 1st of November 2015 to the 2nd of November 2015. Who manipulated the bank statement, who was paid this money, who gave the instruction for this to be done because I did not give any consent or permission for this to be done on my (Peg HR Solutions Pty Ltd) bank account.

c. Attachment 4 : Bank account / statement “PEG HR Solutions 2527 Term”, account number 0000002527. What happened to the money (R5m) that was taken out of this bank account on or about the 18 June 2014 and authorized that money be taken out of this bank account, because I did not do so. On a different but related matter to this attachment 4, is the second page of this attachment 4 supposed to be page 18 of the bank statement, i.e. a continuation of the bank statement? Please clarify and confirm.

d. Please urgently send me all bank statements of PEG HR Solutions Pty Ltd, which include but are not limited to the following, from inception to date:
   i. Account Name “Loan Account”.
   ii. Account Name “Past Due”, account number SMT-LC11I00171.
   iii. Account Name “PEG HR Solutions 2527 Term”, account number 0000002527.
   iv. Account Name “PEG HR Term Loan 7298 R25m”, account number 0000007298.
   v. Any other bank accounts held at First Rand Bank Limited in the name of PEG HR Solutions Pty Ltd.

2. Friedshelf 1287 Pty Ltd
   a. Please send me Friedshelf 1287 Pty Ltd bank statements which include but are not limited to the following, from inception to date:
      i. Loan Account.
      ii. Collection Account Number SMT – DC11A00276.
      iii. Operating Account Number SMT – DC11A00277.
      iv. Deposit Account Number SMT – DC15J00340.
      v. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Thanking you and your team in advance.

Kind Regards
Mbuso Dlamini
0826060492

Attachments:
1. Account Name- Asset- bank account number SMT-LC08K00082 - Missing Page 18.
2. Account Name – Asset- bank account number SMT-LC08K00082 - Missing Page 23.
3. Account Name – PEG HR Solutions 2527 Term – bank account number 0000002527, the two pages covering period 18 November 2014 to 05 September 2018.
4. Account Name – PEG HR Solutions 2527 Term – bank account number 0000002527 - Bank statements - PEG HR Solutions 2527 Term - R5m out of the bank account.

CC : Ms Busi Zwane (011 282 8370)

This e-mail is subject to a disclaimer, available at https://www.firstrand.co.za/email-disclaimer/

Attachments:

- image001.jpg

Annexure C1.15

Response from FRBL's Natalie Rodrigues Regarding Request for Bank Records of PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd

RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

20/11/2024 22:24

From: "Rodrigues, Natalie" <Natalie.Rodrigues@fnb.co.za>

To: mbuso@icon.co.za

Cc: "Pillay, Dhakshini" <Dhakshini.Pillay@rmb.co.za>,admin@palacegroup.co.za,"Ndamase, Bongi" <Bongi.Ndamase@rmb.co.za>

Dear Mr. Mbuso, Thank you kindly. My colleagues included in this email are attending to your request. Warm Regards Natalie Rodrigues

---

From: Mbuso <mbuso@icon.co.za>
Sent: Wednesday, November 20, 2024 8:47 PM
To: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Cc: Pillay, Dhakshini <Dhakshini.Pillay@rmb.co.za>; admin@palacegroup.co.za
Subject: RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Good Day

I sent it to the office of the CEA on the 22nd of April 2024 (copied Ms Busi Zwane) and again on the 06th May 2024 (copied Ms Busi Zwane and Barbi Mulder); and I have not received same to date.

I copied Ms Busi

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Wednesday, 20 November 2024 12:04
To: mbuso@icon.co.za
Cc: Pillay, Dhakshini <Dhakshini.Pillay@rmb.co.za>
Subject: FW: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Good day Mr Ephraim Mbuso Dlamini

We acknowledge your email and are giving this matter our urgent attention.
If possible, can you please provide any additional info as to who you initially sent your request for bank statements to. Would sincerely appreciate.

Kind regards
Natalie Rodrigues

From: Mbuso <mbuso@icon.co.za>
Sent: Tuesday, November 19, 2024 9:03 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; busi.zwane@firstrand.co.za <busi.zwane@firstrand.co.za>; admin@palacegroup.co.za <admin@palacegroup.co.za>; mbuso@icon.co.za <mbuso@icon.co.za>
Subject: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Ms Mary Vilakazi

Kindly and urgently provide us with **a copy of Friedshelf 1287 (RF) Pty Ltd Loan Account bank statement from inception to date**.

You are kindly advised that should not receive a copy of this bank statement by close of business on the 26th November 2024, I will have no choice but to approach any or all of the following, i.e. the National Credit Regulator, Financial Services Conduct Authority, Banking Ombud, Prudential Authority, Financial Intelligence Centre, Public Protector, etc. for their assistance.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

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If you are unable to access our website, please contact us to send you a copy of the email disclaimer or privacy notice.

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Visit the FNB website and view the email disclaimer and privacy notice by clicking the "About FNB + Legal" and "Legal Matters" links.
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Annexure C1.16

Follow Up Request Sent to FRBL's Natalie Rodrigues Regarding Request for Bank Records of Friedshelf (RF) 1287 Pty Ltd

RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

27/11/2024 10:12

From: "Mbuso" <mbuso@icon.co.za>

To: "Rodrigues, Natalie" <Natalie.Rodrigues@fnb.co.za>,mary.vilakazi@firstrand.co.za

Cc: "Pillay, Dhakshini" <Dhakshini.Pillay@rmb.co.za>,admin@palacegroup.co.za,"Ndamase, Bongi" <Bongi.Ndamase@rmb.co.za>

Good day

I have been waiting to receive these bank statements and requested that they be sent to us by yesterday, the 26 November 2024.

This has obviously not happened.

I guess that this therefore means that I have to get assistance from the various institutions in the country mentioned below in order to get assistance with this matter.

Kind Regards
EM Dlamini
Director.

From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, 21 November 2024 08:24
To: 'Rodrigues, Natalie' <Natalie.Rodrigues@fnb.co.za>
Cc: 'Pillay, Dhakshini' <Dhakshini.Pillay@rmb.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'Ndamase, Bongi' <Bongi.Ndamase@rmb.co.za>
Subject: RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Good Day

Thank you for your response.

Please make sure that they send me the following bank statements for the abovementioned entity, namely Friedshelf 1287 (RF) Pty Ltd, from inception to date:

1. Loan account; and
2. Capital Redemption Reserve Account.

As mentioned below, I requested these from the office of the CEO on the 22nd of April 2024 (copied Ms Busi Zwane) and again on the 06th May 2024 (copied Ms Busi Zwane and Barbi Mulder); and I have not received same to date.

I hope to receive these in a day or two, but definitely before the close of business on the 26 November 2024, failing which I will approach the institutions mentioned below, for their assistance on this matter.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Wednesday, 20 November 2024 22:25
To: mbuso@icon.co.za
Cc: Pillay, Dhakshini <Dhakshini.Pillay@rmb.co.za>; admin@palacegroup.co.za; Ndamase, Bongi <Bongi.Ndamase@rmb.co.za>
Subject: RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Dear Mr. Mbuso, Thank you kindly. My colleagues included in this email are attending to your request. Warm Regards Natalie Rodrigues

---

From: Mbuso <mbuso@icon.co.za>
Sent: Wednesday, November 20, 2024 8:47 PM
To: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Cc: Pillay, Dhakshini <Dhakshini.Pillay@rmb.co.za>; admin@palacegroup.co.za
Subject: RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Good Day

I sent it to the office of the CEA on the 22nd of April 2024 (copied Ms Busi Zwane) and again on the 06th May 2024 (copied Ms Busi Zwane and Barbi Mulder); and I have not received same to date.

I copied Ms Busi

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Wednesday, 20 November 2024 12:04
To: mbuso@icon.co.za
Cc: Pillay, Dhakshini <Dhakshini.Pillay@rmb.co.za>
Subject: FW: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Good day Mr Ephraim Mbuso Dlamini

We acknowledge your email and are giving this matter our urgent attention.
If possible, can you please provide any additional info as to who you initially sent your request for bank statements to. Would sincerely appreciate.

Kind regards
Natalie Rodrigues

From: Mbuso <mbuso@icon.co.za>
Sent: Tuesday, November 19, 2024 9:03 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; busi.zwane@firstrand.co.za <busi.zwane@firstrand.co.za>; admin@palacegroup.co.za <admin@palacegroup.co.za>; mbuso@icon.co.za <mbuso@icon.co.za>
Subject: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Ms Mary Vilakazi

Kindly and urgently provide us with **a copy of Friedshelf 1287 (RF) Pty Ltd Loan Account bank statement from inception to date**.

You are kindly advised that should not receive a copy of this bank statement by close of business on the 26th November 2024, I will have no choice but to approach any or all of the following, i.e. the National Credit Regulator, Financial Services Conduct Authority, Banking Ombud, Prudential Authority, Financial Intelligence Centre, Public Protector, etc. for their assistance.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

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Annexure C1.17

Final Response from FRBL's Group CEO – Bank Records Cannot be Located

mbuso@icon.co.za

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Friday, 29 November 2024 12:32
To: mbuso@icon.co.za
Cc: FNB CEOComplaints
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for your email.

Our team is actively working on the matter, please be assured that we are giving your request the attention it deserves.

We understand the importance of this issue and appreciate your understanding during this process.

Yours sincerely.

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Friday, November 29, 2024 8:50 AM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

Good Day Samantha

Please try to find the following and send me the bank statements from inception to date, which may assist us, because there is a link between PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd:

1. Please urgently send me all bank statements of PEG HR Solutions Pty Ltd, which include but are not limited to the following, from inception to date:
    a. Account Name “Loan Account”.
    b. Account Name “Past Due”, account number SMT-LC11I00171.
    c. Account Name “PEG HR Solutions 2527 Term”, account number 0000002527.
    d. Account Name “PEG HR Term Loan 7298 R25m”, account number 0000007298.
    e. Any other bank accounts held at First Rand Bank Limited in the name of PEG HR Solutions Pty Ltd.

Please search for them using the account numbers above, my ID number 561018 5771 087 as well as using the account / company name PEG HR Solutions Pty Ltd. Did you try searching for the Friedshelf 1287 (RF) Pty Ltd bank accounts using the account / company name Friedhslef 1287 (RF) Pty Ltd?

Once you get the PEG HR Solutions Pty Ltd bank accounts, we will try to link back to Friedshelf 1287 (RF) Pty Ltd.

Please let me know if you are unable to find the PEG HR Solutions Pty Ltd so that we may use more information to find these bank accounts.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of PEG HE Solutions Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Friday, 29 November 2024 08:36
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

Dear Mr Dlamini.

Thank you for taking the time to answer my call.

As per telephonic discussion,we are unable to locate the below as per your request.

1. Account Holder : Friedshelf 1287 (RF) Pty Ltd
2. Account Numbers:
    a. Loan Account: has not been issued to us from inception to date.
    b. Capital Redemption Reserve Account: has not been issued to us from inception to date.
    c. Other Accounts we have with yourselves:
        i. Collection Account Number SMT – DC11A00276.
        ii. Operating Account Number SMT – DC11A00277.
        iii. Deposit Account Number SMT – DC15J00340.
    d. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Kindly provide the business account number for Friedshelf 1287 (RF) Pty Ltd or documentation that may assist us to locate the banking profile.

Yours sincerely.

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, November 28, 2024 5:19 PM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good day

Thanks for your quick response. My ID number is 561018 5771 087.

I hope that this helps you, but please let me know if the ID number does not help you, so that I may send you more information.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Thursday, 28 November 2024 15:46
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for your response.

We are still unable to locate the banking profile.

May I please request that you provide your Identity number and contact number, once received we will be able to address your request more effectively.

Kind Regards

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, November 28, 2024 3:06 PM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good day Samantha

Thank you for coming back to us.

1. Account Holder : Friedshelf 1287 (RF) Pty Ltd
2. Account Numbers:
    a. Loan Account: has not been issued to us from inception to date.
    b. Capital Redemption Reserve Account: has not been issued to us from inception to date.
    c. Other Accounts we have with yourselves:
        i. Collection Account Number SMT – DC11A00276.
        ii. Operating Account Number SMT – DC11A00277.
        iii. Deposit Account Number SMT – DC15J00340.
    d. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Please send us bank statements from inception to date for 2a and 2b as soon as possible. Please also send us for 2c (i) to 2c (iii) as well as 2d if you do have 2d.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Thursday, 28 November 2024 13:53
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for reaching out to the CEO's Desk.

We appreciate your email.

To better assist you, could you please provide more details regarding your inquiry.

Specifically, we would need the following information:

1. Business Account Number

Once we have this information, we will be able to address your request more effectively.

Thank you for your understanding and cooperation.

Yours sincerely,

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Wednesday, November 27, 2024 7:05 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; busi.zwane@firstrand.co.za; admin@palacegroup.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Ms Mary Vilakazi

This is a follow up on my request that I sent to you on the 19th of November 2024.

We have not received the information to date, i.e. up to now. I had asked that you send us same by close of business yesterday, the 26 November 2024.

If we do not receive the following bank statements of Friedshelf 1287 (RF) Pty Ltd by tomorrow at 12h00, we will have no choice but to request assistance from the bodies mentioned below:

1. Loan Account from inception to date; and
2. Capital Redemption Reserve Account from inception to date.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

From: Mbuso <mbuso@icon.co.za>
Sent: Tuesday, 19 November 2024 21:02
To: 'mary.vilakazi@firstrand.co.za' <mary.vilakazi@firstrand.co.za>
Cc: 'Mulder, Barbi' <barbi.mulder@firstrand.co.za>; 'busi.zwane@firstrand.co.za' <busi.zwane@firstrand.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd

Good Day Ms Mary Vilakazi

Kindly and urgently provide us with **a copy of Friedshelf 1287 (RF) Pty Ltd Loan Account bank statement from inception to date**.

You are kindly advised that should not receive a copy of this bank statement by close of business on the 26th November 2024, I will have no choice but to approach any or all of the following, i.e. the National Credit Regulator, Financial Services Conduct Authority, Banking Ombud, Prudential Authority, Financial Intelligence Centre, Public Protector, etc. for their assistance.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

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ANNEXURE D

PAYMENT FLOW / OVERPAYMENT EVIDENCE

ITEM NO	DESCRIPTION	AMOUNT	
		FIRST RAND BANK as at 31 August 2018	PEG HR / DLAMINI as at 03 April 2017
1	Capital Drawn	R46 831 118	R42 436 751,68
2	Initial / Restructure Fees	R3 613 800	R0,00
3	Interest	R56 436 102	R42 436 751,68
4	Rates and Taxes Funded	R14 907 458	R9 907 458,00
5	Legal Fees	R164 883	R0,00
6	Repayments	-R94 340 373	-R116 643 992,34
7	Subtotal (per respective column dates)	R27 612 988	-R21 863 030,98

CAPITAL DRAWN ON 20 NOVEMBER 2008						
ITM NO	**DATE**	**DESCRIPTION**	**AMOUNT**	**PAYEE**	**PAYER**	**REMARKS**
1	20/11/2008	Settlement Due	R37 771 824,55	Nedbank	First Rand Bank Limited	FRBL moving PEG HR Solutions Pty Ltd from Nedbank to First Rand Bank Limited
2	20/11/2008	Settlement Due	R869 056,99	Nedbank	First Rand Bank Limited	91 Buccleugh
3	20/11/2008	Settlement Due	R2 052 510,94	ABSA	First Rand Bank Limited	598 / 9 River Club Ext 24
4	02/12/2008	Capital payment CoJ	R15 667,27	CoJ	First Rand Bank Limited	Rates & Taxes
5	02/12/2008	Capital payment Ethekwini	R375 466,94	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
6	02/12/2008	Capital payment Ethekwini	R386 909,60	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
7	02/12/2008	Capital payment Ethekwini	R476 827,51	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
8	02/12/2008	Capital payment Ethekwini	R488 487,88	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
TOTAL CAPITAL DRAWN			**R42 436 751,68**			**On 20.11.2008**

NEDBANK / FIRST RAND BANK LIMITED TRANSACTION OF 20 NOVEMBER 2008 - TRANSFER OF PEG HR SOLUTIONS PTY LTD FROM NEDBANK TO FIRST RAND BANK LIMITED				
ITM NO	**DATE**	**DESCRIPTION**	**AMOUNT**	**REMARKS**
1	20/11/2008	Settlement Due	R37 282 194,55	Per Nedbank Statements
2	20/11/2008	Nedbank Cancellation Fees	**R500,00**	Nedbank Fees
3	20/11/2008	14% VAT on Nedbank Cancellation Fees	**R70,00**	
4	20/11/2008	Early repayment fee	R429 000,00	Per PEG/Nedbank Agreement, attached
5	20/11/2008	14% VAT on charges early repayment fee	**R60 060,00**	
TOTAL PAYABLE TO NEDBANK			**R37 771 824,55**	**AS AT 20 NOVEMBER 2008**

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"FA25"

Summary of total payments and receipts	
Capital Drawn	46 831 118
Initial / Restructure Fees	3 613 800
Interest	56 436 102
Rates and taxes funded	14 907 458
Legal fees	164 883
Repayments	-94 340 373
Balance 31 Aug 2018	27 612 988

SCHEDULE OF PAYMENTS MADE TO RMB FROM INCEPTION TO DATE		
Date	**Description**	**Payment Made to RMB**
Monday, 09 May 2011	Payment by PEG HR, bank transfer	R 1 500 000,00
Monday, 20 June 2011	Payment by PEG HR, bank transfer	R 1 500 000,00
Saturday, 17 September 2011	Payment by PEG HR, bank transfer	R 1 156 283,96
Monday, 03 October 2011	Payment by PEG HR, bank transfer	R 372 618,54
Friday, 14 October 2011	Payment by PEG HR, bank transfer	R 373 742,32
Tuesday, 01 November 2011	Payment by PEG HR, bank transfer	R 385 197,39
Thursday, 01 December 2011	Payment by PEG HR, bank transfer	R 447 692,32
Tuesday, 03 January 2012	Payment by PEG HR, bank transfer	R 466 037,50
Wednesday, 01 February 2012	Payment by PEG HR, bank transfer	R 469 599,79
Thursday, 01 March 2012	Payment by PEG HR, bank transfer	R 456 553,00
Saturday, 03 March 2012	Payment by PEG HR, bank transfer	R 2 333 647,55
Wednesday, 28 March 2012	Payment by PEG HR, bank transfer	R 5 000 000,00
Monday, 02 April 2012	Payment by PEG HR, bank transfer	R 4 500 000,00
Wednesday, 02 May 2012	Payment by PEG HR, bank transfer	R 375 714,03
Tuesday, 31 July 2012	Payment by PEG HR, bank transfer	R 3 000 000,00
Wednesday, 01 August 2012	Payment by PEG HR, bank transfer	R 698,63
Wednesday, 01 August 2012	Interest Capitalisation	R 6 762,18
Friday, 31 August 2012	Payment by PEG HR, bank transfer	R 2 000 000,00
Saturday, 01 September 2012	Interest Capitalisation	R 10 232,34
Sunday, 02 September 2012	Payment by PEG HR, bank transfer	R 335,87
Monday, 01 October 2012	Interest Capitalisation	R 9 990,66
Thursday, 01 November 2012	Interest Capitalisation	R 10 412,78
Wednesday, 07 November 2012	Payment by PEG HR, bank transfer	R 500 000,00
Wednesday, 07 November 2012	Payment by PEG HR, bank transfer	R 400 000,00
Wednesday, 07 November 2012	Payment by PEG HR, bank transfer	R 9 158,02
Wednesday, 11 December 2013	Payment by PEG HR, bank transfer	R 285 000,00
Wednesday, 01 January 2014	Interest Capitalisation	R 1 721,70
Saturday, 01 February 2014	Interest Capitalisation	R 2 564,81
Monday, 03 July 2017	Payment by PEG HR, bank transfer	R 251 173,02
Tuesday, 01 August 2017	Payment by PEG HR, bank transfer	R 241 125,38
Friday, 01 September 2017	Payment by PEG HR, bank transfer	R 254 530,55
Sub-total		**R 26 320 792,34**
2017/04/03	Proceeds from sale of erven 2579, 2580, 2582	R 70 323 200,00
	GRAND TOTAL PAID BY PEG HR SOLUTIONS TO RMB TO DATE	**R 96 643 992,34**
Tuesday, 30 June 2015	F 1287, FA24 page 230	R 20 000 000,00
	GRAND TOTAL PAID BY PEG HR SOLUTIONS & F 1287 TO RMB TO DATE	**R 116 643 992,34**

1 Merchant Place Cnr Fredman Dr & Rivonia Rd Sandton 2196
PO Box 786273 Sandton 2146 South Africa
Switchboard +27 11 282-8000
Facsimile +27 11 282-8008
www.rmb.co.za

Reg No. 1929/001225/06
An Authorised Financial Services Provider

RAND MERCHANT BANK
A division of FirstRand Bank Limited

Mr. Mbuso Dlamini, Friedshelf 1287 (RF) Proprietary Limited and the Mbuso Dlamini Family Trust
(collectively the "Dlamini Entities")
3rd Floor
China Construction Bank Building
95 Grayston Drive
Sandton

AMENDMENT TO CURRENT FUNDING ARRANGEMENT

Dear Mr. Mbuso Dlamini,

Introduction

We refer to Loan Facility Agreement, Class "A" Preference Share Subscription Agreement and Class "B" Preference Share Subscription Agreement between FirstRand Bank Limited and Friedshelf 1287 (RF) Proprietary Limited (collectively the "Facility Agreements") signed on or about 13 December 2011. Capitalised terms used but not defined herein shall have the same meanings given to those terms in the Facility Agreements.

Rand Merchant Bank, a division of FirstRand Bank Limited ("RMB"), has considered the Dlamini-Entities' request for additional liquidity against the investment in ordinary shares and Associated Instruments (as defined in the Actom Investment Holdings (Pty) Ltd Shareholders Agreement) (collectively the "Actom Investment") held by the Dlamini Entities in Actom Investment Holdings (Pty) Ltd ("Actom").

RMB understands that the Dlamini Entities are looking for an additional R25 million of funding against the Actom Investment.

RMB would be willing to advance an additional R26 million of funding against the Actom Investment under the existing Facility Agreements, subject to the amendments of the Facility Agreements as set-out in Annexure A to this letter. This additional advance and amendment to the Facility Agreements will result in an additional fee of R750,000 and a change in Dividend Rights of the Class "B" Preference Shares as contained in Annexure A. Up to R250,000 of the facility will be available to fund pre-agreed directly associated legal fees and cost incurred but the Dlamini Entities pursuant to the amendment of the funding arrangement.

RMB will advance the R26 million on the condition that it will be utilized to repay the PEG HR facility owed to RMB (R20m), Rates & Taxes to Ethekwini Municipality (R5m) as well as a facility fee to RMB (R750,000). These payments will be paid directly from the Friedshelf 1287 (RF) Proprietary Limited bank accounts held by RMB to RMB (R20.75m), Ethekwini Municipality (R5m) and lawyers and service providers up to R250,000 (most efficient structure to be agreed).

Directors: G T Ferreira (Chairman) S E Nxasana (Chief Executive Officer) V W Bartlett J P Burger L L Dippenaar D M Falck P M Goss P K Harris W R Jardine E G Matenge-Sebesho Z B Ntsaluba R K Store B J van der Ross R A Williams Company Secretary: B W Unser

RMB Divisional Board: P K Harris (Chairman) M W Pfaff (Chief Executive Officer) L P Collet (Chief Strategic Officer) M G Field (Chief Financial Officer) P R Gent (Chief Operating Officer) D N Prout-Jones (Chief Investment Officer) J P Burger D J A Craig S Das L L Dippenaar G T Ferreira D A Frankel P M Goss R P Gouws S E Nxasana K Pillay S E N Sebotsa R K Store

This letter shows the indicative terms on which RMB would consider providing the required funding.

Implementation

The final implementation of this transaction is subject to the suspensive conditions listed in Annexure A.

Acceptance

Following acceptance of this offer, the parties will dedicate significant time and resources to concluding the transaction. By signing the term sheet, you agree to pursue the transaction in good faith and you grant exclusivity to RMB to conclude the transaction or a similar transaction from the date of signature of this letter.

By signing this letter you also authorise RMB to engage with Actom and the Actom shareholders to obtain the necessary approvals (to the extent required) for the amendment of the funding arrangements as set-out in this letter. However, obtaining the relevant Actom board and shareholder approvals remain the responsibility of the Dlamini Entities

We trust that the above terms and conditions will be acceptable to all parties to this transaction.

The provisions and undertakings of this letter will only be valid if it is signed by both parties on or before 14 February 2014.

Should you wish to discuss the contents of this term sheet further, please do not hesitate to contact Neels Els on (011) 282 8176 or Shamal Mahabir on (011) 282 4542.

Yours sincerely,

NEELS ELS
For and on behalf of
FirstRand Bank Limited
(acting through its Rand Merchant Bank division)

For and on behalf of
FirstRand Bank Limited
(acting through its Rand Merchant Bank division)

Mr. Mbuso Dlamini, acting on behalf of the Mbuso Dlamini Family Trust
Who hereby warrants that he is duly authorised

EPHRAIM MBUSO DLAMINI acting on behalf of the Mbuso Dlamini Family Trust
Who hereby warrants that he/she is duly authorised

Mr. Mbuso Dlamini

Mr. Mbuso Dlamini, acting on behalf of Friedshelf 1287 (RF) Proprietary Limited
Who hereby warrants that he is duly authorised

EPHRAIM MBUSO DLAMINI acting on behalf of Friedshelf 1287 (RF) Proprietary Limited
Who hereby warrants that he/she is duly authorised

Annexure A: Amendments to the Finance Documents and key salient terms

Additional Advance	Up to a maximum of R26 million additional advance under the Loan Facility Agreement
Interest rate	2% above FNB Prime overdraft rate ("Prime") (NACM) (as per the existing Loan Facility Agreement)
Non-refundable Structuring Fee on Additional Advance	R750 000 plus VAT
Relevant Percentage	This will be amended from "13.2%*" to "19.25%" * Please note that this percentage was originally 12% but was subsequently adjusted to an effective rate of 13.2% in terms of an adjustment notice sent to Friedshelf 1287 (RF) Proprietary Limited on 8 March 2012 with the abolishment of STC and the introduction of Dividend Tax.
Dividend Rights of the Class "B" Preference Shares	The definition of "B" per clause 10.2.1.1 will be amended from "6.6%*" to "13.33%" * Please note that this percentage was originally 6% but was subsequently adjusted to an effective rate of 6.6% in terms of an adjustment notice sent to Friedshelf 1287 (RF) Proprietary Limited on 8 March 2012 with the abolishment of STC and the introduction of Dividend Tax.
Legal costs and expenses	All costs and expenses incurred pursuant to the amendment of the funding arrangement is for the account of the Dlamini Entities. Up to a maximum of R250,000 of the Additional Advance will be available to fund pre-agreed directly associated fees and expenses.
Other terms and conditions	As per the current Facilities Agreements.
Conditions Precedent	These include, inter alia: • Approval by the RMB Investment Committee • Actom Shareholder and Actom board approval to the extent required • Amendment of the legal agreements to effect the amendments

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above and any other consequential amendments to the satisfaction of the RMB

- Tax and legal opinions to the satisfaction of RMB on the proposed transaction set-out in this term sheet
- The Distribution will be utilised to repay the PEG HR facility advanced by RMB (R20m), Rates & Taxes to Ethekwini Municipality (R5m), the Non-refundable Structuring Fee (R750,000) and a maximum of R250 000 to fund costs. This will be done by making a direct payment form the Friedshelf 1287 (RF) Proprietary Limited bank accounts held with RMB to RMB (R20.75m) and the Ethekwini Municipality (R5m) and lawyers and service providers (up to R250,000).

Go to Audit Certificate Report

1 Merchant Place, Cnr Fredman Dr & Rivonia Rd, Sandton, ZA.GT, SOUTH AFRICA, 2196
PO Box 786273, Sandton, ZA.GT, SOUTH AFRICA, 2146
www.rmb.co.za
Registration No: 1929/001225/06
An Authorised Financial Service Provider

Enquiries:
Cara Mullin
Tel: +27 11 2828210
Fax: +27 11 2828328
E-mail: cara.mullin@rmb.co.za

RAND MERCHANT BANK
A division of FirstRand Bank Limited

PEG HR Solutions (Pty) Ltd

2 Osborn Rd

Houghton Office Park

4Th Floor Houghton

Johannesburg
2198
Attention:

Account Number: 0000002527
Account Name: PEG HR Solutions 2527 Term

Currency: ZAR

Lender Name: Rand Merchant Bank a division of FirstRand Bank Ltd

Date produced: 05/09/2018 10:40:31

Statement of Account
for the period 23 May 2014 to 05 September 2018

Date	Days	Base Rate Type	Base Rate	Base Rate Units	Margin	Margin Rate Units	All-In Rate	All In Rate Units	Drawdown	Total Payment	Capital Payment	Interest Payment	Interest Accrued	Interest Compounded	Total Balance
2014/11/18	0	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	39 469 859,09	0,00	0,00	0,00	0,00	0,00	39 469 859,09
2014/11/28	10	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	100 026,36	100 026,36	39 569 885,45
2014/12/01	3	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	30 083,95	0,00	39 599 969,40
2015/01/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	39 910 836,92
2015/02/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	40 221 704,45
2015/03/01	28	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	280 783,57	0,00	40 502 488,02
2015/04/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	40 813 355,54
2015/05/01	30	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	300 839,54	0,00	41 114 195,08
2015/06/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	41 425 062,61
2015/06/30	29	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	20 000 000,00	20 000 000,00	0,00	290 811,55	0,00	21 715 874,16
2015/07/01	1	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	4 959,50	0,00	21 720 833,66
2015/07/24	23	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	114 068,30	0,00	21 834 901,96
2015/07/31	7	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	158 082,19	0,00	0,00	0,00	35 654,72	0,00	22 028 638,87
2015/08/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 134,68	2 305 605,91	22 033 773,55
2015/08/31	30	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	161 369,86	0,00	0,00	0,00	172 044,53	0,00	22 367 187,94
2015/09/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 776,82	177 621,35	22 372 964,76
2015/09/30	29	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	156 164,39	0,00	0,00	0,00	158 869,91	0,00	22 697 999,06
2015/10/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 863,75	174 733,66	22 703 862,81
2015/10/31	31	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	183 185,96	183 185,96	22 887 048,77
2015/11/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	171 780,82	0,00	0,00	0,00	5 956,90	0,00	43 064 786,49
2015/11/20	18	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	201 727,67	0,00	43 266 514,16
2015/12/01	11	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	128 522,16	334 206,75	43 393 036,34
2016/01/01	31	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	359 330,01	359 330,01	43 752 366,35
2016/01/29	28	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	327 243,72	0,00	44 079 610,07
2016/02/01	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	36 859,87	364 103,59	44 116 469,94
2016/02/04	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	37 166,62	0,00	44 153 636,56
2016/02/23	19	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	64 133,82	0,00	0,00	0,00	281 318,03	0,00	44 519 088,41
2016/03/01	7	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	103 841,15	422 325,60	44 622 929,56
2016/03/18	17	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	254 595,21	0,00	44 877 524,77
2016/03/31	13	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	2 739,42	0,00	0,00	0,00	198 663,72	0,00	45 078 927,91
2016/04/01	1	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	15 282,77	468 541,70	45 094 210,68
2016/04/26	27	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	16 069,85	0,00	0,00	0,00	416 967,01	0,00	45 527 247,54
2016/05/01	3	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	46 346,16	463 313,19	45 573 593,72
2016/05/31	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	483 829,25	483 829,25	46 057 422,97
2016/06/20	19	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	9 804,00	0,00	0,00	0,00	299 688,71	0,00	46 366 915,68
2016/07/01	11	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	173 540,93	473 229,64	46 540 456,61
2016/08/01	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	494 093,88	494 093,88	47 034 550,49

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"FA24" 230

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2016/08/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIM	0.00	0.00	0.00	0.00	499 339.41	499 339.41	47 533 889.90
2016/10/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	488 361.88	488 361.88	48 022 251.78
2016/11/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	509 825.28	509 825.28	48 532 077.06
2016/12/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	498 617.23	498 617.23	49 030 694.29
2017/01/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	520 531.34	520 531.34	49 551 225.63
2017/02/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	526 057.53	526 057.53	50 077 283.16
2017/03/02	1	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	480 193.13	480 193.13	50 557 476.29
2017/04/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	6 920 483.00	0.00	0.00	0.00	17 314.21	0.00	57 495 273.50
2017/04/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	590 526.97	607 841.18	58 085 800.47
2017/04/12	9	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	37 178 678.83	26 203 580.00	10 975 098.83	39 784.80	39 784.80	20 046 908.44
2017/05/01	19	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	2 966 975.35	0.00	0.00	0.00	64 562.36	0.00	23 998 444.17
2017/05/11	10	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	155 734.16	220 296.54	24 154 178.33
2017/06/01	21	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	36 634.00	0.00	0.00	0.00	82 719.79	0.00	24 273 532.12
2017/07/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	173 975.02	256 694.81	24 447 507.14
2017/07/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	251 173.02	251 173.02	24 698 680.16
2017/07/21	18	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	251 173.02	0.00	251 173.02	16 916.91	16 916.91	24 464 424.05
2017/08/01	11	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	150 808.09	0.00	24 615 232.14
2017/09/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	241 125.38	0.00	241 125.38	93 317.29	241 125.38	24 464 424.05
2017/10/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	254 530.55	0.00	254 530.55	254 530.55	254 530.55	24 464 424.05
2017/11/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	246 319.89	246 319.89	24 710 743.94
2017/12/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	257 093.28	257 093.28	24 967 837.22
2018/01/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	251 388.50	251 388.50	25 219 225.72
2018/02/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	262 383.59	262 383.59	25 481 609.31
2018/03/01	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	265 113.46	265 113.46	25 746 722.77
2018/03/29	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	241 948.65	241 948.65	25 988 671.42
2018/04/01	3	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	244 222.31	0.00	26 232 893.73
2018/05/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	25 632.56	269 854.97	26 258 526.39
2018/06/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	258 988.21	258 988.21	26 517 514.60
2018/07/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	270 260.69	270 260.69	26 787 775.29
2018/07/11	10	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	264 206.20	264 206.20	27 051 981.49
2018/08/01	21	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	15 502.00	0.00	0.00	0.00	88 936.03	0.00	27 156 423.52
2018/09/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	186 876.88	275 814.91	27 343 300.40
2018/09/05	4	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	278 676.93	278 676.93	27 621 977.33
													36 324.79	0.00	27 658 302.12

Please note: Statement reflects interest accruals up to and excluding each line item date and thus excludes interest accrued for 05/09/2018

SUMMARY OF PAYMENTS MADE TO ETHEKWINI METRO EXCLUDING QAN 88 AND QAN94 PAYMENTS MADE TO ETHEKWINI														
ITEM NO	DESCRIPTION	DATE	AMOUNT	DESCRIPTION	DATE	AMOUNT	DESCRIPTION	DATE	AMOUNT	DESCRIPTION	DATE	AMOUNT	TOTALS	
	ERF 2579 - ACCOUNT NUMBER 83330150191 :			ERF 2580 - ACCOUNT NUMBER 83330152919 :			ERF 2582 - ACCOUNT NUMBER 83330152313 :			ERF 2583 - ACCOUNT NUMBER 83330151202 :				
1	**AT INCEPTION**			**AT INCEPTION**			**AT INCEPTION**			**AT INCEPTION**				
	Balance b/f 1	04-May-08	R128 282,93	Balance b/f 1	04-May-08	R132 754,50	Balance b/f 1	04-May-08	R167 090,46	Balance b/f 1	04-May-08	R170 641,28	R598 769,17	Check
	Balance b/f 2	03-Jun-08	R128 282,92	Balance b/f 2	03-Jun-08	R132 754,48	Balance b/f 2	03-Jun-08	R167 090,42	Balance b/f 2	03-Jun-08	R169 641,26	R597 769,08	Check
	Part of RMB loan	03-Dec-08	R375 466,94	Part of RMB loan	03-Dec-08	R386 909,60	Part of RMB loan	03-Dec-08	R476 827,51	Part of RMB loan	03-Dec-08	R488 487,88	R1 727 691,93	
	SUB-TOTAL 1		**R632 032,79**			**R652 418,58**			**R811 008,39**			**R828 770,42**	**R2 924 230,18**	
2	**BY FRIEDSHELF**			**BY FRIEDSHELF**			**BY FRIEDSHELF**			**BY FRIEDSHELF**				
	Payment	24/06/2014	R1 050 357,79	Payment	24/06/2014	R1 451 725,02	Payment	24/06/2014	R2 086 875,34	Payment	24/06/2014	R411 041,85	R5 000 000,00	
	SUB-TOTAL 2		**R1 050 357,79**			**R1 451 725,02**			**R2 086 875,34**			**R411 041,85**	**R5 000 000,00**	
3	**BY MBUSO**			**BY MBUSO**			**BY MBUSO**			**BY MBUSO**				
	Payment	08-Jun-08	R155 767,47	Payment	08-Jun-08	R158 677,56	Payment	08-Jun-08	R184 167,35	Payment	08-Jun-08	R190 420,36	R689 032,74	
	Payment	31-Oct-15	R130 000,00				Payment	28-Oct-15	R130 000,00		09-Mar-09	241140,48	R501 140,48	
											13-Jul-11	9999,91	R9 999,91	
											23-Oct-15	170000	R170 000,00	
											07-Dec-15	170000	R170 000,00	
	SUB-TOTAL 3		**R285 767,47**			**R158 677,56**			**R314 167,35**			**R781 560,75**	**R1 540 173,13**	
4	**BY CONVEYANCER ON BEHALF OF PEG H**			**BY CONVEYANCER ON BEHALF OF PEG H**			**BY CONVEYANCER ON BEHALF OF PEG H**			**BY CONVEYANCER ON BEHALF OF PEG HR**				
	Payment	07-Mar-17	R1 513 024,00	Payment	07-Mar-17	R2 382 688,00	Payment	07-Mar-17	R3 024 771,00	Payment	07-Mar-17	R0,00	R6 920 483,00	Paid ex sale of 3 erven
	SUB-TOTAL 4		**R1 513 024,00**			**R2 382 688,00**			**R3 024 771,00**			**R0,00**	**R6 920 483,00**	
	TOTALS		**R3 481 182,05**			**R4 645 509,16**			**R6 236 822,08**			**R2 021 373,02**	**R16 384 886,31**	

THE METRO BILL
REVENUE DEPARTMENT

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

TAX INVOICE

15-141

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 0191	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office Poskantoor 83330150191

EasyPay **9 1800 833 301 501 916**

payat 11350 0833 3015 0191

payCity 04001 833 3015 0191

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	1050357.79
14-06-24DP	PAYMENT - THANK YOU	1050357.79CR
	PARK AVENUE UMHLANGA RIDGE	
2883 4029	MONTHLY RATES - JULY INSTALMENT	38983.33
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE BY 2014-07-23	38983.33

MAKE THINGS HAPPEN

NEDBANK

Payment Methods:

1. Pay at Nedbank Branches by completing a Nedbank Deposit Slip to pay 'Ethekwini Municipality' (bank account number is not required) OR
2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

15-141

THE METRO BILL
REVENUE DEPARTMENT

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

TAX INVOICE

15-142

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 2919	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office Poskantoor 83330152919

EasyPay 9 1800 833 301 529 198

payA 11350 0833 3015 2919

payCity 04001 833 3015 2919

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	1451725.02
14-06-24DP	PAYMENT - THANK YOU	1451725.02CR
	PARK AVENUE UMHLANGA RIDGE	
2883 4433	MONTHLY RATES - JULY INSTALMENT	60424.17
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE BY 2014-07-23	60424.17

MAKE THINGS HAPPEN

NEDBANK

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3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

15-142

THE METRO BILL
REVENUE DEPARTMENT

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Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

TAX INVOICE

15-143

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 2313	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office Poskantoor 83330152313

EASYPAY 9 1800 833 301 523 134

payat 11350 0833 3015 2313

payCity 04001 833 3015 2313

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	2086875.34
14-06-24DP	PAYMENT - THANK YOU	2086875.34CR
	PARK LANE UMHLANGA RIDGE	
2883 4332	MONTHLY RATES - JULY INSTALMENT	76797.17
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE BY 2014-07-23	76797.17

MAKE THINGS HAPPEN

NEDBANK

Payment Methods:

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2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

15-143

THE METRO BILL
REVENUE DEPARTMENT

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

TAX INVOICE

15-144

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 1202	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office
Poskantoor 83330151202

EasyPay 9 1800 833 301 512 020
pay@ 11350 0833 3015 1202
payCity 04001 833 3015 1202

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	1990147.34
14-06-24DP	PAYMENT - THANK YOU	411041.85CR
		1579105.49
	URGENT : ACCOUNT IN ARREARS!	
	Should payment not be made at a MUNICIPAL Office with online receipting facilities by 2014-07-12, we advise that we intend to cut off or restrict the supply of Electricity/Water on 2014-07-12 and we may on or after that date so cut off or restrict such supply.	
	SHOULD YOU WISH TO DISCUSS THE MATTER, PLEASE VISIT ANY OF THE METRO REVENUE OFFICES BY NOT LATER THAN 2014-07-12. OR POST WRITTEN SUBMISSIONS TO P.O. BOX 828 DURBAN 4000 TO REACH OUR OFFICES BY NOT LATER THAN 2014-07-12.	
	INTEREST CHARGES ON RATES	8648.33
	TWILIGHT DRIVE UMHLANGA RIDGE	
2883 4231	MONTHLY RATES - JULY INSTALMENT	76407.33
	INTEREST CHARGES	3132.96
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE	1667294.11

MAKE THINGS HAPPEN

NEDBANK

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2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

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ANNEXURE E

CORRESPONDENCE

(Including ENS Delay + Demand Emails)

DEMAND EMAIL FROM APPLICANT TO RESPOND ON 28 APRIL 2026 AT 21H58 FOR RESPONSE ON PAPERS SERVED ON THE RESPONDENT ON THE 23 MARCH 2026 AT 18H43

mbuso.dlamini@palacegroup.co.za

From: mbuso.dlamini@palacegroup.co.za
Sent: Tuesday, 28 April 2026 21:58
To: 'Calvin Kekana'
Cc: 'Gary Oertel'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'Phila Ramphomane'; 'Cameron van der Walt'; 'mbuso.dlamini@palacegroup.co.za'
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the rescission application served on 23 March 2026.

Despite indicating an intention to defend, no answering affidavit has been delivered to date.

Kindly confirm, by no later than **5 May 2026**, your client's position and the anticipated date for delivery of its answering affidavit.

In the absence of a response within the above timeframe, the Applicant will proceed to take appropriate procedural steps, including enrolling the matter or seeking further directions from the Court.

This communication is sent in order to regularise the position and avoid unnecessary delay.

Yours faithfully,
E.M. Dlamini
Applicant (in person)

From: Calvin Kekana <ckekana@ensafrica.com>
Sent: Wednesday, 08 April 2026 16:30
To: mbuso.dlamini@palacegroup.co.za
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com; Phila Ramphomane <pramphomane@ensafrica.com>; Cameron van der Walt <cvanderwalt@ensafrica.com>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We refer to the above matter.

We hereby serve the respondent's notice of intention to oppose.

Please acknowledge receipt.

Regards

Calvin Kekana
Associate
Insolvency, Restructuring and Business Rescue
+27 72 523 9891
+27 11 269 7600
ckekana@ensafrica.com

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Edward Nathan Sonnenbergs Incorporated registration number 2006/018200/21
level 1 B-BBEE rating

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From: Calvin Kekana
Sent: 30 March 2026 08:44 AM
To: 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We acknowledge receipt of the application.

Our client will be opposing the application.

Kind regards

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: 30 March 2026 08:41 AM
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Subject: Rescission Application – Case No. 38401/2018 | Final Notice

Dear Sirs,

We refer to the Applicant's rescission application served on you on 23 March 2026, and the follow-up correspondence dated 29 March 2026.

The application was served after business hours on 23 March 2026 and is accordingly deemed to have been received on 24 March 2026.

To date, no confirmation of receipt or indication has been received as to whether your client intends to oppose the application.

Kindly take notice that, in the absence of a response within five (5) court days from the date of this email, the Applicant will proceed to enrol the application on the unopposed motion roll and seek appropriate relief, including costs.

This correspondence is sent in the interests of procedural fairness and to afford your client a final opportunity to indicate its position.

Kindly confirm receipt of this email.

Failing which, the Applicant will proceed without further notice.

Yours faithfully,
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To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
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We will await your client's answering affidavit in due course.

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Subject: RE: Rescission Application – Case No. 38401/2018

Dear sirs

Attached is the **Proof of Service** of the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

Yours faithfully,
E.M. Dlamini

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The application has been duly filed and uploaded to CaseLines.

The Applicant seeks, inter alia:

- the rescission and setting aside of the 2019 judgment;
- the suspension of enforcement pending determination of this application; and
- the production of the complete underlying transactional records relating to the alleged indebtedness.

Kindly acknowledge receipt hereof.

We will await your client's answering affidavit in due course.

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SERVICE EMAIL FROM RESPONDENT TO APPLICANT ON 28 APRIL 2026 AT 22H01 OF THEIR REPLYING AFFIDAVIT ON PAPERS ORIGINALLY SERVED BY APPLICANT ON 23 MARCH 2026 AT 18H43

mbuso.dlamini@palacegroup.co.za

From: Calvin Kekana <ckekana@ensafrica.com>
Sent: Tuesday, 28 April 2026 22:01
To: mbuso.dlamini@palacegroup.co.za
Cc: Gary Oertel; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com; Phila Ramphomane; Cameron van der Walt
Subject: RE: Rescission Application – Case No. 38401/2018
Attachments: 28.04.2026_Respondent's Answering Affidavit_Rescission Application_Dlamini.pdf

Dear Sir

We refer to the above matter.

We hereby serve the respondent's answering affidavit.

Please acknowledge receipt.

Kind regards

Calvin Kekana
Associate
Insolvency, Restructuring and Business Rescue
+27 72 523 9891
+27 11 269 7600
ckekana@ensafrica.com

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From: Calvin Kekana
Sent: 08 April 2026 04:30 PM
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Cc: Gary Oertel <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; Phila Ramphomane <pramphomane@ensafrica.com>; Cameron van der Walt <cvanderwalt@ensafrica.com>
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- the suspension of enforcement pending determination of this application; and

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We will await your client's answering affidavit in due course.

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E.M. Dlamini

15-157

EMAIL FROM RESPONDENT TO APPLICANT ON 28 APRIL 2026 AT 22H02 CONFIRMING SERVICE OF THEIR REPLYING AFFIDAVIT ON PAPERS ORIGINALLY SERVED BY APPLICANT ON 23 MARCH 2026 AT 18H43

mbuso.dlamini@palacegroup.co.za

From: Calvin Kekana <ckekana@ensafrica.com>
Sent: Tuesday, 28 April 2026 22:02
To: mbuso.dlamini@palacegroup.co.za
Cc: Gary Oertel; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com; Phila Ramphomane; Cameron van der Walt
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs

We have served our answering affidavit.

Kind regards

Calvin Kekana
Associate
Insolvency, Restructuring and Business Rescue
+27 72 523 9891
+27 11 269 7600
ckekana@ensafrica.com
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Kindly confirm, by no later than **5 May 2026**, your client's position and the anticipated date for delivery of its answering affidavit.

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Sent: Monday, 23 March 2026 18:43
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the above matter.

Kindly find attached the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

The application has been duly filed and uploaded to CaseLines.

The Applicant seeks, inter alia:

- the rescission and setting aside of the 2019 judgment;
- the suspension of enforcement pending determination of this application; and
- the production of the complete underlying transactional records relating to the alleged indebtedness.

Kindly acknowledge receipt hereof.

We will await your client’s answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

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ANNEXURE F

EVIDENCE OF ABSENCE OF RECORDS / CEO CONFIRMATION

mbuso@icon.co.za

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Friday, 29 November 2024 12:32
To: mbuso@icon.co.za
Cc: FNB CEOComplaints
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for your email.

Our team is actively working on the matter, please be assured that we are giving your request the attention it deserves.

We understand the importance of this issue and appreciate your understanding during this process.

Yours sincerely.

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Friday, November 29, 2024 8:50 AM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

Good Day Samantha

Please try to find the following and send me the bank statements from inception to date, which may assist us, because there is a link between PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd:

1. Please urgently send me all bank statements of PEG HR Solutions Pty Ltd, which include but are not limited to the following, from inception to date:
    a. Account Name “Loan Account”.
    b. Account Name “Past Due”, account number SMT-LC11I00171.
    c. Account Name “PEG HR Solutions 2527 Term”, account number 0000002527.
    d. Account Name “PEG HR Term Loan 7298 R25m”, account number 0000007298.
    e. Any other bank accounts held at First Rand Bank Limited in the name of PEG HR Solutions Pty Ltd.

Please search for them using the account numbers above, my ID number 561018 5771 087 as well as using the account / company name PEG HR Solutions Pty Ltd. Did you try searching for the Friedshelf 1287 (RF) Pty Ltd bank accounts using the account / company name Friedhslef 1287 (RF) Pty Ltd?

Once you get the PEG HR Solutions Pty Ltd bank accounts, we will try to link back to Friedshelf 1287 (RF) Pty Ltd.

Please let me know if you are unable to find the PEG HR Solutions Pty Ltd so that we may use more information to find these bank accounts.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of PEG HE Solutions Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Friday, 29 November 2024 08:36
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

Dear Mr Dlamini.

Thank you for taking the time to answer my call.

As per telephonic discussion,we are unable to locate the below as per your request.

1. Account Holder : Friedshelf 1287 (RF) Pty Ltd
2. Account Numbers:
    a. Loan Account: has not been issued to us from inception to date.
    b. Capital Redemption Reserve Account: has not been issued to us from inception to date.
    c. Other Accounts we have with yourselves:
        i. Collection Account Number SMT – DC11A00276.
        ii. Operating Account Number SMT – DC11A00277.
        iii. Deposit Account Number SMT – DC15J00340.
    d. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Kindly provide the business account number for Friedshelf 1287 (RF) Pty Ltd or documentation that may assist us to locate the banking profile.

Yours sincerely.

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, November 28, 2024 5:19 PM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good day

Thanks for your quick response. My ID number is 561018 5771 087.

I hope that this helps you, but please let me know if the ID number does not help you, so that I may send you more information.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Thursday, 28 November 2024 15:46
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for your response.

We are still unable to locate the banking profile.

May I please request that you provide your Identity number and contact number, once received we will be able to address your request more effectively.

Kind Regards

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, November 28, 2024 3:06 PM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good day Samantha

Thank you for coming back to us.

1. Account Holder : Friedshelf 1287 (RF) Pty Ltd
2. Account Numbers:
    a. Loan Account: has not been issued to us from inception to date.
    b. Capital Redemption Reserve Account: has not been issued to us from inception to date.
    c. Other Accounts we have with yourselves:
        i. Collection Account Number SMT – DC11A00276.
        ii. Operating Account Number SMT – DC11A00277.
        iii. Deposit Account Number SMT – DC15J00340.
    d. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Please send us bank statements from inception to date for 2a and 2b as soon as possible. Please also send us for 2c (i) to 2c (iii) as well as 2d if you do have 2d.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Thursday, 28 November 2024 13:53
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for reaching out to the CEO's Desk.

We appreciate your email.

To better assist you, could you please provide more details regarding your inquiry.

Specifically, we would need the following information:

1. Business Account Number

Once we have this information, we will be able to address your request more effectively.

Thank you for your understanding and cooperation.

Yours sincerely,

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Wednesday, November 27, 2024 7:05 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; busi.zwane@firstrand.co.za; admin@palacegroup.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Ms Mary Vilakazi

This is a follow up on my request that I sent to you on the 19th of November 2024.

We have not received the information to date, i.e. up to now. I had asked that you send us same by close of business yesterday, the 26 November 2024.

If we do not receive the following bank statements of Friedshelf 1287 (RF) Pty Ltd by tomorrow at 12h00, we will have no choice but to request assistance from the bodies mentioned below:

1. Loan Account from inception to date; and
2. Capital Redemption Reserve Account from inception to date.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

From: Mbuso <mbuso@icon.co.za>
Sent: Tuesday, 19 November 2024 21:02
To: 'mary.vilakazi@firstrand.co.za' <mary.vilakazi@firstrand.co.za>
Cc: 'Mulder, Barbi' <barbi.mulder@firstrand.co.za>; 'busi.zwane@firstrand.co.za' <busi.zwane@firstrand.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd

Good Day Ms Mary Vilakazi

Kindly and urgently provide us with **a copy of Friedshelf 1287 (RF) Pty Ltd Loan Account bank statement from inception to date**.

You are kindly advised that should not receive a copy of this bank statement by close of business on the 26th November 2024, I will have no choice but to approach any or all of the following, i.e. the National Credit Regulator, Financial Services Conduct Authority, Banking Ombud, Prudential Authority, Financial Intelligence Centre, Public Protector, etc. for their assistance.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

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ANNEXURE G

EVIDENCE RELATING TO ERF 2583 UMHLANGA ROCKS

Mbuso

From: du Plessis, Jean <Jean.duPlessis@rmb.co.za>
Sent: Tuesday, 21 August 2018 16:03
To: Mbuso Dlamini
Subject: PEG HR
Attachments: MFT Offer To Purchase (1).pdf; PEG Shareholders Resolution.pdf; PEG Directors Resolution.pdf

Hi Mbuso

I tried to phone you, but in the mean time attached is a signed offer for R25 m plus VAT. Please have a look and phone me to discuss. Also note that it expires later in the week.

Regards

Jean du Plessis

This e-mail is subject to a disclaimer, available at
http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

BOWMANS

Execution Version

SALE OF IMMOVABLE PROPERTY AGREEMENT

(Erf 2583, Umhlanga Rocks Durban)

between

PEG HR SOLUTIONS PROPRIETARY LIMITED

and

THE MICHAEL FAMILY TRUST (OR ITS NOMINEE)

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PARTIES:

This Agreement is made between:

(1) **PEG HR SOLUTIONS PROPRIETARY LIMITED**, Registration Number 2003/025572/07, a private company incorporated in accordance with the Laws of South Africa; and

(2) **THE MICHAEL FAMILY TRUST**, Registration Number IT2502/1997, represented herein by its trustees for the time being.

WHEREAS

A. The Seller is the registered owner of the Property.

B. The Purchaser intends purchasing the Property.

C. The Seller has agreed to sell the Property to the Purchaser for the Purchase Price and on the terms and conditions set out in this Agreement.

IT IS AGREED AS FOLLOWS:

1. **DEFINITIONS**

For the purposes of this Agreement and the preamble above, unless the context requires otherwise:

1.1 **AFSA** – the Arbitration Foundation of Southern Africa;

1.2 **Agreement** – this Sale of Immovable Property Agreement which shall be constituted by the Purchaser accepting the Offer in the manner contemplated in clause 3;

1.3 **Association** – Umhlanga Ridge Town Centre Management Association, NPC, Registration Number 2001/000648/08, a non-profit company incorporated in accordance with the Laws of South Africa

1.4 **Bulk** – bulk as contemplated in the Town Planning Scheme applicable to the Property;

1.5 **Compliance Certificate** – a certificate of compliance as contemplated in terms of the Electrical Installation Regulations promulgated under the Machinery and Occupational Safety Act No. 6 of 1983;

1.6 **Conveyancers** – Bowman Gilfillan Inc, 11 Alice Lane, Sandton (Craig Schafer), the conveyancers nominated by the Seller to effect Transfer;

1.7 **Design Review Committee** – the Design Review Committee of the Association;

1.8 **Development Manual** – the Umhlanga Ridge New Town Centre Development Manual Volume 2 Version 1.8 prepared by GAPP Architects and Urban Designers for the development of Mixed – Use Sites dated July 2008 and as amended and added to from time to time;

1.9 **Directors** – the directors of the Association;

1.10 **Due Diligence Period** – a period of 10 Business Days after the Signature Date;

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1.11 **Effective Date** – the date on which all of the Suspensive Conditions have been fulfilled or waived;

1.12 **Municipality** – the eThekwini Municipality;

1.13 **Offer** – the Purchaser's offer to the Seller to purchase the Property from the Seller for the Purchase Price and on the terms and conditions set out in this Agreement as contemplated in clause 3;

1.14 **Parties** – the Seller and the Purchaser and **Party** shall mean any one of them, as the context may indicate;

1.15 **Property** – Erf 2583 Umhlanga Rocks, Registration Division FU, Province of KwaZulu-Natal, in extent 4 971 square metres;

1.16 **Purchase Price** – the purchase price payable by the Purchaser to the Seller for the Property being the amount referred to in clause 5.1;

1.17 **Purchaser** – the Michael Family Trust, Registration Number IT2502/1997, represented herein by its trustees for the time being;

1.18 **SARS** –the South African Revenue Service;

1.19 **Seller** – Peg HR Solutions Proprietary Limited, Registration Number 2003/025572/07, a private company incorporated in accordance with the Laws of South Africa;

1.20 **Signature Date** – the date of signature of this Agreement by the Seller;

1.21 **Suspensive Conditions** – the suspensive conditions set out in clause 4.1;

1.22 **Tongaat Hulett** – Tongaat Hulett Developments Proprietary Limited, Registration Number 1981/012378/07, a private company incorporated in accordance with the Laws of South Africa;

1.23 **Town Centre** – "the Town Centre" as defined in the Association's Memorandum of Incorporation;

1.24 **Transfer** – registration of transfer of the Property from the Seller to the Purchaser in the Pietermaritzburg Deeds Registry;

1.25 **Transfer Date** – the date on which Transfer is effected;

1.26 **VAT** – value-added tax as levied from time to time in terms of the VAT Act, No 89 of 1991.

1.27 Any reference to -

1.27.1 the singular includes the plural and *vice versa*;

1.27.2 natural Persons include juristic Persons and *vice versa*;

1.27.3 any one sex or gender includes the other sexes or genders, as the case may be;

1.27.4 any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment or legislative measure of government (Including local or provincial government) statutory or regulatory body which has the force of Law means the relevant enactment or legislative measure as at the Signature Date and as amended or re-enacted from time to time;

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1.27.5 a Party includes a reference to that Party's estate, successors in title and assigns allowed at Law;

1.27.6 "Business Day" means any Day other than a Saturday, Sunday or South African Public Holiday;

1.27.7 "Calendar Month" means one of the 12 Months of the Year from the 1st to the last Day of such Month;

1.27.8 "Day" means a calendar Day;

1.27.9 "Month" means a Month calculated from a particular Day in one Month to the Day before the Day numerically corresponding to it in the following Month;

1.27.10 "Year" means a year calculated from a particular Day in one year to the Day before the Day numerically corresponding to it in the following year;

1.28 Whenever any number of Days is prescribed, it excludes the first and includes the last Day unless the last Day falls on a Saturday, Sunday or South African public holiday in which case the last Day will be the next succeeding business Day.

1.29 The words "shall" and "will" and "must" used in the context of any obligation or restriction imposed on a Party have the same meaning.

1.30 The clause headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation.

1.31 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.32 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to that provision as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.

1.33 If any period is referred to in this Agreement by way of a reference to a number of Days or weeks or Months or other intervals, the period shall be reckoned exclusively of the 1st Day and inclusively of the last Day of the relevant interval, unless the last Day falls on a Day which is not a business Day, in which case the last Day shall be the next succeeding business Day.

1.34 If the due date for performance of any obligation in terms of this Agreement is a Day which is not a Business Day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately succeeding Business Day.

1.35 If any obligation or act is required to be performed on a particular Day it shall be performed (unless otherwise stipulated) by 16h00 (local time at the place where the obligation or act is required to be performed) on that Day.

1.36 This Agreement shall be governed, interpreted and enforced in accordance with the Laws of the Republic of South Africa from time to time.

1.37 No provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement.

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1.38 The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply.

1.39 The terms defined in this Agreement shall bear the same meanings in any annexures hereto.

2. **SALE**

The Seller sells the Property to the Purchaser (which purchases the Property from the Seller) for the Purchase Price on the terms and conditions set out in this Agreement.

3. **OFFER OPEN FOR ACCEPTANCE**

3.1 This Agreement, upon signature thereof by the Purchaser, shall constitute an offer by the Purchaser to purchase the Property from the Seller for the Purchase Price and on the terms and conditions set out herein.

3.2 Such Offer shall be open for acceptance by the Seller for a period of 3 Business Days from the date on which the Purchaser signs this Agreement. Failure by the Seller to accept the offer to purchase, by countersigning the Agreement within 3 Business Days of receipt thereof, will result in the Offer and this Agreement lapsing and ceasing to be of any further force and effect.

4. **SUSPENSIVE CONDITIONS**

4.1 Except for clauses 1, 3, 4, 6, 8.1 and clauses 20 to 23 (and any other provision necessary to give effect to those clauses, all of which are separate and severable from the remaining provisions of the Agreement and shall be of full force and effect and operative from the Signature Date), the operation of this Agreement shall be subject to the suspensive conditions that by no later than:

4.1.1 the last day of the Due Diligence Period, the Purchaser provides the Seller with written confirmation that it is satisfied with the results of the due diligence investigation which it will be conducting in terms of clause 6, in respect of the Property;

4.1.2 30 Days after the Signature Date, the Seller has provided the Purchaser with confirmation that Tongaat Hulett has consented in writing to (i) the removal of the restrictive condition imposed in its favour in paragraph G (a) in Deed of Transfer No T 58953/2007 (the "**Restrictive Condition**") simultaneously with registration of transfer of the Property into the name of the Purchaser and (ii) the conclusion of a notarial deed or such other conveyancing documentation as may be required to give effect thereto, Or to the extent that Tongaat Hullett requires the Restrictive Condition to be carried forward and be binding on the Purchaser with effect from the Transfer Date, such conveyancing and other documentation as may be required to give effect thereto has been signed and the Purchaser has confirmed in writing that it has no objection to the Restrictive Condition being carried forward and being binding on it from the Transfer Date on the terms and conditions required by Tongaat Hullett;

4.1.3 30 Days after the Signature Date, the Purchaser has been granted such loan finance as the Purchaser may require in order to fund payment by the Purchaser of the Purchase Price in terms of this Agreement, on terms and conditions acceptable to the Purchaser.

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4.2 The due date/s for the fulfilment of any one or more of the Suspensive Conditions may be extended by the Parties by agreement in writing between the Parties provided that the periods contemplated in clauses 4.1.2 and 4.1.3 shall be automatically extended by a further period of 30 days.

4.3 If any of the Suspensive Conditions, referred to in clauses 4.1.1- 4.1.2, remain unfulfilled and the fulfilment thereof is not waived by the Seller by the due date from the fulfilment thereof (or any automatic or agreed extended date), then the Agreement will be of no force and effect and:

4.3.1 to the extent that this Agreement may have been partially implemented, the Parties must as far as possible be restored to the positions they were in prior to the Signature Date;

4.3.2 no Party will have any claim against the other arising out of or in connection with this Agreement.

5. **PURCHASE PRICE**

5.1 The Purchase Price for the Property is R25 000 200,00 (Twenty Five Million Two Hundred Rand) plus VAT in an amount of R 3 750 030,00 (Three Million Seven Hundred and Fifty Thousand and Thirty Rand) payable to the Seller on the Transfer Date. This figure was arrived at by multiplying the Bulk of 8 170 (Eight Thousand One Hundred and Seventy) metres squared attributable to the Property by R3 060,00 (Three Thousand and Sixty Rand) per Bulk metre squared.

5.2 Payment of the Purchase Price together with VAT thereon must be secured by the Purchaser by lodging a bank guarantee for the full Purchase Price, plus VAT, with the Conveyancers within 20 Days of the Effective Date.

5.3 The guarantee referred to in clause 5.2 shall be from a South African bank and on terms and conditions reasonably acceptable to the Seller, in favour of the holders of any mortgage bonds registered over the Property, drawn and payable:

5.3.1 on a South African bank;

5.3.2 on cancellation of any existing mortgage bond/s over the Property;

5.3.3 on registration of transfer of the Property by the Seller into the name of the Purchaser; and

5.3.4 on registration of a new mortgage bond in favour of the bank that grants the Purchaser such loan finance as the Purchaser may require.

5.4 The Purchaser shall (to the extent required by the Purchaser) be registering a mortgage bond over the Property simultaneously with transfer of the Property to the Purchaser.

5.5 All payments in terms of or arising out of this Agreement must be made without demand and free of all charges to the Party entitled to payment.

6. **DUE DILIGENCE**

6.1 During the Due Diligence Period, the Purchaser may undertake a due diligence investigation into the Property.

6.2 The Seller undertakes throughout the Due Diligence Period to:

6.2.1 co-operate with the Purchaser, its authorised representatives, employees, attorneys and auditors (together "the Purchaser's Team");

6.2.2 make available and, where required, provide copies to the Purchaser's Team of all documents, books, records, electronic data and information requested by the Purchaser for the purpose of the due diligence investigation; and

6.2.3 ensure that the Seller, its officers, employees, agents, auditors and advisers answer questions from the Purchaser's Team and provide all information and documents that may be required by the Purchaser's Team, in both instances within 48 hours of request.

6.3 The Purchaser undertakes to keep all information disclosed to it for the purposes of the due diligence investigation strictly confidential and undertakes not to use such information or disclose any such information to any person, other than the Purchaser's Team who are required to consider and evaluate it. This undertaking does not apply to any information which is not confidential or is public knowledge or which is or falls into the public domain through no fault of the Purchaser.

7. TRANSFER OF THE PROPERTY

7.1 Transfer shall be effected within a reasonable time after the Effective Date and:

7.1.1 the Parties must ensure that their tax affairs are up to date as required by SARS to facilitate prompt issue by SARS of the transfer duty receipt or transfer duty exemption receipt (as the case may be) required for the purposes of effecting Transfer;

7.1.2 the Seller must do everything required to enable the Municipality to promptly issue a rates clearance certificate for the Property including but not limited to paying all rates and taxes (including all arrear rates and taxes) as are payable to the Municipality to procure the issue of such rates clearance certificate; and

7.1.3 the Seller must do everything required to enable the Association to promptly issue a clearance certificate for the Property including but not limited to paying all levies (including all arrear levies) as are payable to the Association to procure the issue of such clearance certificate.

7.2 Each Party must, within 7 Days after being called upon to do so by the Conveyancers, sign all documents required to be signed and furnish all documents required to be furnished by that Party to enable Transfer. The Parties acknowledge and agree that they shall be obliged to sign such notarial deed/s and/or other conveyancing documentation as may be required to procure that the provisions of clause 4.1.2 are given effect to on the Transfer Date, which notarial deed/s and/or other conveyancing documentation shall be registered simultaneously with registration of transfer of the Property into the name of the Purchaser.

8. OCCUPATION AND RISK

8.1 The Seller agrees from the Signature Date to grant the Purchaser and its agents reasonable access to the Property by pre-arrangement with the Seller, at all reasonable times, for purposes of investigation, survey, soil testing, environmental and planning investigations, and any other investigations which the Purchaser may in its sole discretion deem necessary.

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8.2 On the Transfer Date the Seller must give the Purchaser vacant occupation of the Property.

8.3 With effect from the Transfer Date:

8.3.1 all the benefit and risk of ownership of the Property will pass to the Purchaser;

8.3.2 the Purchaser is liable for all rates, taxes and other charges levied on the Property;

8.3.3 the Purchaser is liable for all levies to the Association.

9. **PURCHASER'S ACKNOWLEDGMENTS AND UNDERTAKINGS**

9.1 The Purchaser:

9.1.1 acknowledges that it is aware of the intended future development of the Town Centre by Tongaat Hulett and that such development is intended to involve the establishment of high quality business and commercial premises and residential dwellings on various portions of the Town Centre and so designed as to facilitate an aesthetic and harmonious blending with the environment;

9.1.2 undertakes that it will not, without reasonable grounds for doing so:

9.1.2.1 interfere with any such proposed development; nor

9.1.2.2 lodge any objection with any competent authority in respect of any such development;

9.1.3 agrees that it will not, without reasonable grounds for doing so, object to any application made by or on behalf of Tongaat Hulett, its nominee or agent for special usage consent, licences for shopping, commercial or filling station rights, rezoning, removal of conditions of title under the Removal of Restrictive Conditions Act or by way of any application to Court or to any local or other competent authority in respect of any property within the Town Centre;

9.1.4 specifically acknowledges that it is aware that owners of land surrounding the Property will be erecting buildings or other structures on such surrounding land which may block or otherwise interfere with the views from the Property and the Purchaser agrees that it shall have no right, without reasonable cause, to object to the construction of any building or other structure on land in the Town Centre on the basis that such building or other structure blocks or otherwise interferes with the views from the Property, nor will it have any claim for any alleged diminution in the value of the Property arising out of any interference with the views from the Property by reason of the construction of any such building or structure where it has been afforded an opportunity to object thereto and has not, on reasonable grounds, objected thereto;

9.1.5 acknowledges that no buildings or alterations or extension to any existing buildings or any other structures may be erected on the Property other than in accordance with plans approved by the Association acting through the Design Review Committee and the Purchaser agrees that it will have no claim whatsoever, arising out of whatever cause, against the Association, any members of the Design Review Committee or Tongaat Hulett or the Seller for any loss suffered by reason of the Design Review Committee refusing to approve or delay the approval of any plans submitted by the Purchaser save where the Purchaser can prove mala fides on the part of the Design Review Committee or where the decision was not made in accordance with the Association's

Memorandum of Incorporation as read with the Development Manual and the Architectural Controls;

10. **COSTS**

10.1 The Purchaser is liable for, and must on receipt of an account from the Conveyancers pay:

10.1.1 the legal costs of and incidental to Transfer other than those specified in clause 10.2;

10.1.2 VAT payable on the costs payable by the Purchaser in terms of this clause 10.1.

10.2 Any costs in connection with the cancellation of existing bonds, of the registration of the notarial deed/s and/or other conveyancing documentation contemplated in clause 7.2 and of any other rights which require to be cancelled to enable Transfer, the amendment or replacement of the Seller's title deed or the withdrawal of judicial attachments, interdicts, caveats or other bars to Transfer, shall be borne and paid for by the Seller.

10.3 Each Party is liable for its own legal costs of and incidental to the negotiation, drafting, settlement and signature of this Agreement.

11. **LEVIES TO ASSOCIATION**

11.1 From the Transfer Date, the Purchaser shall be responsible to pay a monthly levy to the Association as contemplated in the Memorandum of Incorporation of the Association.

11.2 The monthly levy payable to the Association shall be calculated in accordance with the provisions of the Memorandum of Incorporation of the Association.

12. **MEMBERSHIP OF THE UMHLANGA RIDGE TOWN CENTRE MANAGEMENT ASSOCIATION NPC**

The Purchaser acknowledges that it shall be obliged to become and remain a Member of the Association from the Transfer Date and the Purchaser undertakes to comply in every respect with the Association's Memorandum of Incorporation and the rules made in terms thereof at all times, and to ensure that any person who comes upon the Property, or the Town Centre by virtue of the Purchaser's rights thereto, does likewise.

13. **RULES OF THE ASSOCIATION**

13.1 The Purchaser acknowledges that the Directors have the power to make rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Town Centre, for the purposes of giving proper effect to the provisions of the Memorandum of Incorporation of the Association and for any other purpose, which powers shall include the right to impose reasonable financial penalties to be paid by those members who fail to comply with the provisions of the Memorandum of Incorporation or the rules.

13.2 The Purchaser acknowledges that, subject to the provisions of this Agreement, the Memorandum of Incorporation and the Development Manual, the Directors shall be entitled at all times to lay down rules in regard to -

13.2.1 the preservation of the natural environment;

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13.2.2 vegetation and flora and fauna in the Town Centre;

13.2.3 the placing of movable objects upon or outside the buildings included in the Town Centre, including the power to remove any such objects;

13.2.4 the storing of flammable and other harmful substances;

13.2.5 the conduct of any persons within the Town Centre and the prevention of nuisance of any nature to any owner of immovable property in the Town Centre;

13.2.6 the use of land within the Town Centre having regard to the intended retail, commercial and mixed use of the Town Centre, (including but in no way limited to, the level of noise emanating from the use of the property and the parking and traffic implications of same);

13.2.7 the use of roads, pathways and open spaces;

13.2.8 the imposition of fines and other penalties to be paid by members of the Association;

13.2.9 the management, administration and control of the common areas and open spaces;

13.2.10 the design guidelines for the erection of all buildings and other structures, including service connections to buildings;

13.2.11 the design guidelines for the establishment, installation and maintenance of gardens, both public and private;

13.2.12 the use by owners and their tenants of buildings and other structures and the upkeep, aesthetics and maintenance of such buildings;

13.2.13 the use of adjoining sidewalks, road frontages and parking areas;

13.2.14 security; and

13.2.15 generally in regard to any other matter which the Directors of the Association from time to time consider appropriate and in the best interests of its members, and the Purchaser undertakes and shall be obliged, with effect from the Transfer Date, to abide by such rules as if it was the owner of the Property and to ensure that all tenants, nominees, invitees and other persons who occupy or enter upon the Property and its surrounds by virtue of the Purchaser's rights thereto, do likewise.

13.3 The Purchaser shall be obliged to bring the rules to the attention of any tenant prior to such tenant taking possession of the Property or any portion thereof.

14. **MUNICIPAL SERVICES**

The Purchaser acknowledges that should the Municipality or any other service provider not have the means, or be unwilling, or agree to delegate the obligation to the Association, to maintain or provide municipal services within the Town Centre, the Association may, if the Association in its sole discretion deems it appropriate, take over the responsibility for providing and maintaining such services and/or enhanced services.

15. **ELECTRICAL COMPLIANCE CERTIFICATE**

The Seller shall not be obliged to procure the issue of a Compliance Certificate by virtue of the Property being unimproved.

16. **AGENT'S COMMISSION**

No agents commission is due by either Party on this transaction.

17. **WARRANTIES**

17.1 The Seller warrants with regards to the Property that:

17.1.1 the Property is beneficially owned by the Seller which will be able to give free and unencumbered title thereof to the Purchaser in accordance with the provisions of the Agreement;

17.1.2 no person will on the Transfer Date, have any rights of acquisition (including options, rights of pre-emption or rights of first refusal) in respect of the Property nor any right to encumber the Property (save to the extent contemplated in clause 4.1.2);

17.1.3 no legal action has been instituted against the Seller and the Seller has no knowledge of any contemplated legal action in terms whereof the Property may be attached and the transfer thereof may be interdicted;

17.1.4 the Property is not and, on the Transfer Date, will not be subject to any leases or other rights of occupation in favour of any person;

17.1.5 no part of the Property is occupied by any illegal occupant;

17.1.6 the Property is not contaminated and/or polluted arising from any activity conducted on or about the Property by the Seller and/or any of its predecessors in title and/or their respective invitees or otherwise howsoever and the Purchaser will not incur any liability, obligation or penalty of whatever nature in terms of the National Environmental Management Act 1998 and/or any other law relating to the maintenance and/or protection of the natural environment by virtue of its ownership of the Property;

17.1.7 the Property is not and, on the Transfer Date, will not be subject to any unregistered servitudes or other unregistered real rights;

17.1.8 the Bulk attributable to the Property is 8 170 square metres;

17.1.9 to the knowledge of the Seller, the Property is not land in respect of which any person may make a claim (or has made a claim which is unresolved) as envisaged in the Restitution of Land Rights Act, No. 22 of 1994 (as amended) or any other similar claims;

17.1.10 no public road has been declared over the Property;

17.1.11 there is no proposal to amend the zoning of the Property.

17.2 For the purposes hereof, "knowledge" includes all matters in respect of which the Seller has actual knowledge or could, through making reasonable enquires in this regard, have acquired actual

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knowledge. Furthermore, a matter shall be regarded as material if its disclosure prior to the Signature Date would have caused the Purchaser, acting reasonably, not to have entered into the Agreement either at all or on the terms and conditions set out in the Agreement. The Parties record and agree that a breach by the Seller of the warranty contained in clause 17.1.2 shall be a material breach of this Agreement.

17.3 The warranties provided herein shall be given as at the Signature Date and the Transfer Date (save unless expressly stated or where clearly inappropriate).

18. **NOMINATION OF NEW PURCHASER**

18.1 The Purchaser shall be entitled, no later than 7 Days from the Effective Date, to nominate a third party as purchaser, in whole or in part, under this Agreement in its place and stead ("the Second Purchaser") in which event the Seller hereby agrees that this sale to the Purchaser shall be cancelled with effect from the date of signature of a new sale agreement between the Seller, on the one part, and the Second Purchaser and (where the Purchaser has nominated a third party to assume its obligations in part) the Purchaser, on the other part, on the same terms and conditions, mutatis mutandis, as set out in this Agreement save that-

18.1.1 the purchaser shall be defined as the person who is the Second Purchaser and (where the Purchaser has nominated a third party to assume its obligations in part) the Purchaser;

18.1.2 any cancellation and new sale is subject to the condition that:

18.1.2.1 the Second Purchaser must be in existence on the date of the new sale;

18.1.2.2 there are no suspensive conditions in the new sale.

18.2 The Parties undertake to forthwith do all things within their respective powers to ensure the signature of the new sale agreement occurs within 7 Days of date of acceptance of the nomination by the Second Purchaser.

18.3 It is recorded that:

18.3.1 no consideration shall be payable to any person in respect of the cancellation of this Agreement;

18.3.2 the Seller shall not receive any amounts from the Purchaser (whether in respect of the purchase price payable under this Agreement or otherwise), which will require to be refunded as a result of the cancellation of this Agreement.

19. **MUTUAL WARRANTIES AND REPRESENTATIONS**

Each Party hereby represents and warrants to the other that:

19.1 it has the requisite power to enter into this Agreement and to exercise its rights and perform its obligations hereunder;

19.2 all authorities or other actions required to authorise its execution of this Agreement and its performance of its obligations hereunder have been duly taken;

19.3 the execution of this Agreement and its exercise of its rights and performance of its obligations hereunder do not constitute and will not, to the best of its knowledge and belief, result in any breach of any agreement, law or treaty;

19.4 this Agreement is executed by its duly authorised representative;

19.5 all acts, conditions and other things required to be done, fulfilled and performed in order:

19.5.1 to enable it lawfully to enter into, exercise its rights under and perform its obligations expressed to be assumed by it in this Agreement;

19.5.2 to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid and binding; and

19.5.3 to make this Agreement admissible in evidence in South Africa,

have been done, fulfilled and performed.

20. **DISPUTE RESOLUTION**

20.1 In the event of there being any dispute or difference between the Parties arising out of this Agreement, the Parties shall use their respective best endeavours and efforts to resolve any such dispute through mutual consultation, without involving third parties.

20.2 If following such mutual consultation the dispute still remains outstanding within 10 (ten) Business Days after the date of referral in writing, then, unless otherwise provided for, the said dispute or difference shall on written demand by either Party be submitted to arbitration in Johannesburg in accordance with the AFSA rules, which arbitration shall be administered by AFSA

20.3 Should AFSA, as an institution, not be operating at that time or not be accepting requests for arbitration for any reason, then the arbitration shall be conducted in accordance with the AFSA rules for commercial arbitration (as last applied by AFSA) before an arbitrator appointed by agreement between the Parties or failing agreement within 10 (ten) Business Days of the demand for arbitration, then any Party shall be entitled to forthwith call upon the chairperson of the Johannesburg Bar Council to nominate the arbitrator, provided that the person so nominated shall be an advocate of not less than 10 (ten) years standing as such. The person so nominated shall be the duly appointed arbitrator in respect of the dispute. In the event of the attorneys of the Parties failing to agree on any matter relating to the administration of the arbitration, such matter shall be referred to and decided by the arbitrator whose decision shall be final and binding on the Parties.

20.4 Any Party may appeal the decision of the arbitrator or arbitrators in terms of the AFSA rules for commercial arbitration.

20.5 Nothing herein contained shall be deemed to prevent or prohibit a Party from applying to the appropriate court for urgent relief or for judgment in relation to a liquidated claim.

20.6 Any arbitration in terms of this clause 20 (including any appeal proceedings) shall be conducted *in camera* and the Parties shall treat as confidential details of the dispute submitted to arbitration, the conduct of the arbitration proceedings and the outcome of the arbitration.

20.7 This clause 20 will continue to be binding on the Parties notwithstanding any termination or cancellation of the Agreement.

21. **BREACH**

21.1 If either Party breaches any provision of this Agreement and remains in breach for 14 days after receipt of written notice by such Party requiring that Party to rectify that breach, the other Party shall be entitled at that Party's option:

21.1.1 to sue for the immediate specific performance of any or all the defaulting Party's obligations under this Agreement whether or not any such obligation is then due; or

21.1.2 (either as an alternative to a claim for specific performance or upon the abandonment of such a claim) to cancel this Agreement. Written notice of such cancellation shall be given to the defaulting Party and the cancellation shall take effect on the giving of such notice.

21.2 In the event of either Party cancelling this Agreement in terms of the preceding sub-clause, the aggrieved Party shall be entitled to claim damages suffered related to such cancellation.

21.3 The Parties' remedies in terms of this clause are without prejudice to any other remedies to which the Parties may be entitled in law.

21.4 The Parties acknowledge and agree that, in the event of registration of transfer of the Property into the name of the Purchaser being delayed by virtue of a third party (i) laying claim to the Property and/or (ii) claiming that the Seller has undertaken to sell the Property to such third party and/or (iii) seeking to prevent and/or interdict the transfer to the Purchaser by virtue of any alleged act or omission on the part of the Seller, the Purchaser shall be entitled to:

21.4.1 withdraw any guarantee issued on its behalf to secure payment of the Purchaser Price and shall only be obliged to again provide the Seller with a guarantee to secure payment of the Purchase Price once it has been provided with such documentary evidence as the Purchaser may reasonably require that such third party claim will no longer delay transfer; or

21.4.2 proceed in accordance with clause 21.1 (for which purposes the Seller shall be deemed to be in breach of its obligations in terms of this Agreement).

22. **NOTICES AND ADDRESSES FOR SERVICE**

22.1 Unless otherwise specified any notice or communication in terms of this Agreement:

22.1.1 must be in writing to be effective;

22.1.2 must be sent by hand, registered post or e-mail to the addresses below, which physical addresses the Parties select as their respective domicilium citandi et executandi:

22.2 Unless otherwise specified any notice or communication in terms of this Agreement:

22.2.1 must be in writing to be effective;

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22.2.2 must be sent by hand, registered post or e-mail to the addresses/ numbers below, which physical addresses the Parties select as their respective domicilium citandi et executandi:

the Seller	2nd Floor, West Tower, Maude Street, Nelson Mandela Square, Sandton. 2196. RSA. PO Box 785553, Sandton. 2146. E-mail: mbuso.dlamini@palacegroup.co.za
the Purchaser	96 Raymond Mhlaba Street, Naval View, Bloemfontein, 9300 Email: michael@georgiou.co.za

22.3 A Party may change its address to any other address within South Africa. Such change will only take effect upon receipt or deemed receipt of such notice by the other Party.

22.4 Any notice or communication shall:

22.4.1 if delivered by hand during business hours to the person apparently in charge of the Property selected by the addressee for the delivery of notices, be deemed to have been received on the date of delivery;

22.4.2 if sent by registered post to the selected address, be deemed to have been received 6 days after posting; and

22.4.3 if sent by e-mail to the selected e-mail address of the addressee, be deemed to have been received on the first business day following the date on which it has been transmitted from the information system under the control of the sender.

22.5 Any written notice or communication which has actually been received by a Party shall be regarded as sufficient notice even if it has not been sent in the manner or to the address number provided for above.

23. **MISCELLANEOUS LEGAL PROVISIONS**

23.1 This is the whole agreement between the Parties containing all of the express provisions agreed on by the Parties with regard to the subject matter hereof.

23.2 No Party may rely on any representation which allegedly induced that Party to enter into this Agreement, unless the representation is recorded herein.

23.3 No agreement varying, adding to, deleting from or cancelling this Agreement (including this clause) and no waiver of any right under this Agreement shall be effective unless in writing and signed by or on behalf of the Parties.

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23.4 No relaxation by a Party of any of its rights in terms of this Agreement at any time shall prejudice or be a waiver of its rights (unless it is a signed written waiver) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.

23.5 No Party may cede, delegate, assign or sub-contract any of its rights or obligations in terms of this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld.

23.6 This Agreement may be signed by the Parties in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement.

23.7 This Agreement shall be binding on and shall inure for the benefit of the successors and assigns and personal representatives (as the case may be) of each of the Parties.

23.8 Since the provisions of this Agreement have been settled by negotiation and each Party has been free to secure independent legal advice, the rule of construction that clauses must be interpreted against the Party principally responsible for drafting does not apply.

23.9 Each of the Parties acknowledges and agrees that all of the provisions of this Agreement and the restrictions herein contained are fair and reasonable in all the circumstances and are in accordance with the Parties' intentions.

23.10 Where an expression has been defined and such definition contains a provision conferring a right or imposing an obligation on any Party, then notwithstanding that it is contained only in a definition, effect must be given to that provision as if it were a substantive provision contained in the body of this Agreement.

23.11 Words or expressions defined in any particular clause in the body of this Agreement must bear the meaning so assigned to it throughout this Agreement unless the context indicates otherwise.

23.12 The *eiusdem generis* rule does not apply so that whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "including" and specific examples, such examples must not be construed so as to limit the general ambit of the provision concerned.

23.13 A reference to any legislation (including statutes, ordinances, regulations and by-laws) must be construed as a reference to that legislation as at the date of signature of this Agreement and as may be amended or re-enacted or substituted from time to time.

23.14 A reference to any statutory body or court or to any association for the purposes appointing an expert or arbitrator must be construed as a reference to that statutory body or court or association as at the date of signature and any successor.

23.15 A reference to any legal principle, doctrine or process under South African law includes a reference to the equivalent or analogous principle, doctrine or process in any other jurisdiction in which the provisions of this Agreement may apply or to the laws of which a Party may be or become subject.

23.16 The expiration or termination of this Agreement does not affect such of its provisions which of necessity must continue to apply after such expiration or termination.

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23.17 Headings of clauses are inserted for the purpose of convenience only and must be ignored in the interpretation of this Agreement.

23.18 Unless inconsistent with the context, words signifying any one gender will include the others, words signifying the singular will include the plural and vice versa and words signifying natural persons will include artificial persons and vice versa.

23.19 Any reference to an amount in this Agreement means that amount is exclusive of VAT unless specified otherwise.

23.20 The various documents forming part of this Agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the Agreement will prevail.

23.21 Each and every provision of this Agreement (excluding only those provisions which are essential at law for a valid and binding Agreement to be constituted) shall be deemed to be separate and severable from the remaining provisions of this Agreement. If any of the provisions of this Agreement (excluding only those provisions which are essential at law for a valid and binding Agreement to be constituted) is found by any court of competent jurisdiction to be invalid and/or unenforceable then, notwithstanding such invalidity and/or unenforceability, the remaining provisions of this Agreement shall be and remain of full force and effect.

23.22 Each Party must bear its own legal costs incidental to the negotiation, preparation and implementation of this Agreement.

23.23 Any costs incurred by a Party arising out of the breach by any other Party of the any of the provisions of this Agreement must be borne by the Party in breach on an attorney and own client scale.

SIGNED at SANDTON on this the 21st day of AUGUST 2018

For and on behalf of
THE MICHAEL FAMILY TRUST

Signatory: MICHAEL NICOLAS GEORGIOU
Capacity: TRUSTEE
Who warrants his authority hereto

SIGNED at _____ on this the _____ day of _____20__.

For and on behalf of
PEG HR SOLUTIONS PROPRIETARY LIMITED

Signatory:
Capacity:
Who warrants his authority hereto

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RESOLUTION PASSED BY THE DIRECTORS OF PEG HR SOLUTIONS PROPRIETARY LIMITED, REGISTRATION NUMBER 2003/025572/07 (the **Company**)

HELD AT

ON THE

WHEREAS:

1. The Company is the registered owner of Erf 2583 Umhlanga Rocks Township, Registration Division FU, the Province of KwaZulu-Natal, in extent 4 971 square metres (the **Property**).

2. The Michael Family Trust, Registration Number TMP 2502/1997 (the **Trust**) and the Company intend to conclude a sale agreement, in terms of which, *inter alia*, the Company will sell the Property to the Trust for a purchase price of R 25 000 200,00 (twenty five million two hundred Rand) plus VAT (the **Sale Agreement**).

IT WAS ACCORDINGLY RESOLVED THAT:

1. The Company concludes the Sale Agreement with the Trust.

2. _____ (the **Signatory**) in his/her capacity as duly authorised representatives of the Company be and are hereby authorised and empowered to:

2.1 negotiate the final terms and conditions of the Sale Agreement;

2.2 sign the Sale Agreement and all other deeds or documents which may be necessary for the implementation of the Sale Agreement; and

2.3 generally do everything that may be necessary for the implementation of the Sale Agreement;

and any agreement, deeds or documents signed by the said Signatory, acting under authority of this resolution, shall conclusively be deemed to be the agreement, deeds and documents authorised by this resolution.

_____

EPHRRAIM MBUSO DLAMINI
Director

SPECIAL RESOLUTION

in terms of

Sections 112 & 115 of the Companies Act, No. 71 of 2008 (the **Act**)

PASSED BY THE SHAREHOLDERS OF PEG HR SOLUTIONS PROPRIETARY LIMITED, REGISTRATION NUMBER 2003/025572/07 (the **Company**)

HELD AT

ON THE

WHEREAS:

1. The Company is the registered owner of Erf 2583 Umhlanga Rocks Township, Registration Division FU, Province of KwaZulu-Natal, in extent 4 971 square metres (the **Property**).

2. The Company intends to conclude a sale agreement with the Michael Family Trust, Registration Number TMP 2502/1997 (or its nominee) (the **Trust**), in terms of which the trust will purchase the Property from the Company for a purchase price of R25 000 200, 00 (twenty five million two hundred Rand) plus VAT (the **Sale Agreement**).

3. The Property constitutes the whole or the greater part of the assets or undertaking of the Company and accordingly the consent of the shareholders of the Company is required for the conclusion of the Sale Agreement (as contemplated in Section 112, read with Section 115, of the Act).

IT WAS ACCORDINGLY UNANIMOUSLY RESOLVED THAT:

1. Notice of the meeting having been given and all of the shareholders of the Company being present, it was unanimously agreed that:

1.1. the prescribed minimum notice period for this meeting as contemplated in Section 62(2A) of the Act, be and is hereby waived;

1.2. any defects in the provision of notice for the meeting be and are hereby ratified as contemplated in Section 62(4) of the Act;

1.3. in accordance with Sections 112 and 115 of the Act, the disposal by the Company of all or a greater part of its assets and/or undertaking as set out in the Sale Agreement to be concluded between the Company and the Trust and any documents ancillary thereto, be and is hereby approved.

Names of the Shareholders of Peg HR Solutions Proprietary Limited:

_____

_____

_____

_____

To be signed by each and every Shareholder

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mbuso.dlamini@palacegroup.co.za

From: mbuso.dlamini@palacegroup.co.za
Sent: Saturday, 02 May 2026 21:41
To: 'Calvin Kekana'
Cc: 'Gary Oertel'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'greg.carlson@epalvend.com'; 'Phila Ramphomane'; 'Cameron van der Walt'; 'mbuso.dlamini@palacegroup.co.za'
Subject: RE: Rescission Application – Case No. 38401/2018
Attachments: F-6-annexure-d-payment-flow-overpayment-evidence1.pdf; F-7-annexure-e-correspondence1.pdf; F-8-annexure-f-ceo-admission1.pdf; F-9-annexure-g-evidence-relating-to-erf-25831.pdf

EMAIL 3:

- Annexure D – Payment Flow / Overpayment Evidence (attached)
- Annexure E – Correspondence (attached)
- Annexure F – CEO Confirmation (Absence of Records) (attached)
- Annexure G – Erf 2583 Evidence (attached)

Yours faithfully,
E.M. Dlamini
Applicant (in person)
Email: mbuso.dlamini@palacegroup.co.za
Cell: 082 606 0492

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, 02 May 2026 21:38
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'greg.carlson@epalvend.com' <greg.carlson@epalvend.com>; 'Phila Ramphomane' <pramphomane@ensafrica.com>; 'Cameron van der Walt' <cvanderwalt@ensafrica.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

EMAIL 2:

- Annexure C1 – Document Demand Chronology (attached)

Yours faithfully,
E.M. Dlamini
Applicant (in person)
Email: mbuso.dlamini@palacegroup.co.za
Cell: 082 606 0492

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, 02 May 2026 21:35
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'greg.carlson@epalvend.com' <greg.carlson@epalvend.com>; 'Phila Ramphomane' <pramphomane@ensafrica.com>; 'Cameron van der Walt' <cvanderwalt@ensafrica.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

EMAIL 1:

Dear Sirs

RE: RESCISSION APPLICATION – CASE NO. 38401/2018 - SERVICE OF APPLICANT'S REPLYING AFFIDAVIT

We refer to the above matter.

Kindly take notice that the Applicant's Replying Affidavit, together with Annexures "A" to "G", has been duly filed on CaseLines.

The documents, because of size, are being sent in three emails, namely Email 1 (with Applicant's Replying affidavit, Annexure A, Annexure B and Annexure C as attachments); Email 2 (with Annexure C1 as attachment); and Email 3 (with Annexures D – G as attachments).

For convenience and to ensure proper service, we attach herewith:

- Applicant's Replying Affidavit (Attached)
- Annexure A – 2019 Judgment (Attached)
- Annexure B – Certificate of Balance (Attached)
- Annexure C – Financial Reconstruction Summary (Attached)
- Annexure C1 – Document Demand Chronology (will be attached to Email 2)
- Annexure D – Payment Flow / Overpayment Evidence (will be attached to Email 3)
- Annexure E – Correspondence (will be attached to Email 3)

- Annexure F – CEO Confirmation (Absence of Records) (will be attached to Email 3)
- Annexure G – Erf 2583 Evidence (will be attached to Email 3)

The filing on CaseLines constitutes formal filing. This email serves as **service on your offices**.

The Respondent is invited to proceed in accordance with the Uniform Rules.

Kindly confirm receipt.

The Applicant reserves all rights in respect of further procedural steps.

Yours faithfully,
E.M. Dlamini
Applicant (in person)
Email: mbuso.dlamini@palacegroup.co.za
Cell: 082 606 0492

From: Calvin Kekana <ckekana@ensafrica.com>
Sent: Tuesday, 28 April 2026 22:01
To: mbuso.dlamini@palacegroup.co.za
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com; Phila Ramphomane <pramphomane@ensafrica.com>; Cameron van der Walt <cvanderwalt@ensafrica.com>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We refer to the above matter.

We hereby serve the respondent's answering affidavit.

Please acknowledge receipt.

Kind regards

Calvin Kekana
Associate
Insolvency, Restructuring and Business Rescue
+27 72 523 9891
+27 11 269 7600
ckekana@ensafrica.com

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Edward Nathan Sonnenbergs Incorporated registration number 2006/018200/21
level 1 B-BBEE rating

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From: Calvin Kekana
Sent: 08 April 2026 04:30 PM
To: 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Cc: Gary Oertel <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; Phila Ramphomane <pramphomane@ensafrica.com>; Cameron van der Walt <cvanderwalt@ensafrica.com>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We refer to the above matter.

We hereby serve the respondent's notice of intention to oppose.

Please acknowledge receipt.

Regards

From: Calvin Kekana
Sent: 30 March 2026 08:44 AM
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Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We acknowledge receipt of the application.

Our client will be opposing the application.

Kind regards

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: 30 March 2026 08:41 AM
To: Calvin Kekana <ckekana@ensafrica.com>
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com;

jill.smith@epalvend.com
Subject: RE: Rescission Application – Case No. 38401/2018

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Subject: Rescission Application – Case No. 38401/2018 | Final Notice

Dear Sirs,

We refer to the Applicant's rescission application served on you on 23 March 2026, and the follow-up correspondence dated 29 March 2026.

The application was served after business hours on 23 March 2026 and is accordingly deemed to have been received on 24 March 2026.

To date, no confirmation of receipt or indication has been received as to whether your client intends to oppose the application.

Kindly take notice that, in the absence of a response within five (5) court days from the date of this email, the Applicant will proceed to enrol the application on the unopposed motion roll and seek appropriate relief, including costs.

This correspondence is sent in the interests of procedural fairness and to afford your client a final opportunity to indicate its position.

Kindly confirm receipt of this email.

Failing which, the Applicant will proceed without further notice.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 21:26
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

Attached is the follow-up email of today, 29.03.2026, which has been filed via Case Lines.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 20:44
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the rescission application served on you on 23 March 2026, together with the Notice of Motion, Founding Affidavit and Annexures A–F, and subsequently uploaded to CaseLines.

Kindly confirm receipt of the application, if not already done, and advise whether your client intends to oppose.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:58
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear sirs

Attached is the **Proof of Service** of the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:43
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the above matter.

Kindly find attached the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

The application has been duly filed and uploaded to CaseLines.

The Applicant seeks, inter alia:

- the rescission and setting aside of the 2019 judgment;
- the suspension of enforcement pending determination of this application; and
- the production of the complete underlying transactional records relating to the alleged indebtedness.

Kindly acknowledge receipt hereof.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

mbuso.dlamini@palacegroup.co.za

From: mbuso.dlamini@palacegroup.co.za
Sent: Saturday, 02 May 2026 21:52
To: 'Calvin Kekana'
Cc: 'Gary Oertel'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'greg.carlson@epalvend.com'; 'Phila Ramphomane'; 'Cameron van der Walt'; 'mbuso.dlamini@palacegroup.co.za'
Subject: RE: Rescission Application – Case No. 38401/2018
Attachments: F-10-proof-of-service1.pdf

Dear Sirs

Attached is **the Proof of Service** of the Applicant's Replying Affidavit which has been filed via Case Lines today, 02 May 2026, for your kind attention.

Yours faithfully,
E.M. Dlamini
Applicant (in person)
Email: mbuso.dlamini@palacegroup.co.za
Cell: 082 606 0492

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, 02 May 2026 21:41
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'greg.carlson@epalvend.com' <greg.carlson@epalvend.com>; 'Phila Ramphomane' <pramphomane@ensafrica.com>; 'Cameron van der Walt' <cvanderwalt@ensafrica.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

EMAIL 3:

- Annexure D – Payment Flow / Overpayment Evidence (attached)
- Annexure E – Correspondence (attached)
- Annexure F – CEO Confirmation (Absence of Records) (attached)
- Annexure G – Erf 2583 Evidence (attached)

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Applicant (in person)

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Cell: 082 606 0492

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, 02 May 2026 21:38
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'greg.carlson@epalvend.com' <greg.carlson@epalvend.com>; 'Phila Ramphomane' <pramphomane@ensafrica.com>; 'Cameron van der Walt' <cvanderwalt@ensafrica.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

EMAIL 2:

- Annexure C1 – Document Demand Chronology (attached)

Yours faithfully,
E.M. Dlamini
Applicant (in person)
Email: mbuso.dlamini@palacegroup.co.za
Cell: 082 606 0492

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Subject: RE: Rescission Application – Case No. 38401/2018

EMAIL 1:

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RE: RESCISSION APPLICATION – CASE NO. 38401/2018 - SERVICE OF APPLICANT'S REPLYING AFFIDAVIT

We refer to the above matter.

Kindly take notice that the Applicant's Replying Affidavit, together with Annexures "A" to "G", has been duly filed on CaseLines.

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- Annexure G – Erf 2583 Evidence (will be attached to Email 3)

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The Respondent is invited to proceed in accordance with the Uniform Rules.

Kindly confirm receipt.

The Applicant reserves all rights in respect of further procedural steps.

Yours faithfully,
E.M. Dlamini
Applicant (in person)
Email: mbuso.dlamini@palacegroup.co.za
Cell: 082 606 0492

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To: mbuso.dlamini@palacegroup.co.za
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com; Phila Ramphomane <pramphomane@ensafrica.com>; Cameron van der Walt

<cvanderwalt@ensafrica.com>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We refer to the above matter.

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Please acknowledge receipt.

Kind regards

Calvin Kekana
Associate
Insolvency, Restructuring and Business Rescue
+27 72 523 9891
+27 11 269 7600
ckekana@ensafrica.com

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Before depositing funds, please call the person responsible for your matter to verify that the bank account you have on record is a legitimate bank account of ENS

Edward Nathan Sonnenbergs Incorporated registration number 2006/018200/21
level 1 B-BBEE rating

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Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

We refer to the above matter.

We hereby serve the respondent's notice of intention to oppose.

Please acknowledge receipt.

Regards

From: Calvin Kekana
Sent: 30 March 2026 08:44 AM
To: 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Cc: Gary Oertel <goertel@ensafrica.com>; admin@palacegroup.co.za; simon.mabuza@epalvend.com; jill.smith@epalvend.com
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sir

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Our client will be opposing the application.

Kind regards

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Subject: Rescission Application – Case No. 38401/2018 | Final Notice

Dear Sirs,

We refer to the Applicant's rescission application served on you on 23 March 2026, and the follow-up correspondence dated 29 March 2026.

The application was served after business hours on 23 March 2026 and is accordingly deemed to have been received on 24 March 2026.

To date, no confirmation of receipt or indication has been received as to whether your client intends to oppose the application.

Kindly take notice that, in the absence of a response within five (5) court days from the date of this email, the Applicant will proceed to enrol the application on the unopposed motion roll and seek appropriate relief, including costs.

This correspondence is sent in the interests of procedural fairness and to afford your client a final opportunity to indicate its position.

Kindly confirm receipt of this email.

Failing which, the Applicant will proceed without further notice.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 21:26
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Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

Attached is the follow-up email of today, 29.03.2026, which has been filed via Case Lines.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 29 March 2026 20:44
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Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the rescission application served on you on 23 March 2026, together with the Notice of Motion, Founding Affidavit and Annexures A–F, and subsequently uploaded to CaseLines.

Kindly confirm receipt of the application, if not already done, and advise whether your client intends to oppose.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:58
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com'

<jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Rescission Application – Case No. 38401/2018

Dear sirs

Attached is the **Proof of Service** of the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

Yours faithfully,
E.M. Dlamini

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 23 March 2026 18:43
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: Rescission Application – Case No. 38401/2018

Dear Sirs,

We refer to the above matter.

Kindly find attached the Applicant's Notice of Motion, Founding Affidavit, and supporting Annexures (A–F) in an application for the rescission of the judgment granted on 22 October 2019 under case number 38401/2018.

The application has been duly filed and uploaded to CaseLines.

The Applicant seeks, inter alia:

- the rescission and setting aside of the 2019 judgment;
- the suspension of enforcement pending determination of this application; and
- the production of the complete underlying transactional records relating to the alleged indebtedness.

Kindly acknowledge receipt hereof.

We will await your client's answering affidavit in due course.

Yours faithfully,
E.M. Dlamini

mbuso.dlamini@palacegroup.co.za

From:	mbuso.dlamini@palacegroup.co.za
Sent:	Monday, 18 May 2026 19:47
To:	'jhboenrolment@judiciary.org.za'
Cc:	'simon.mabuza@epalvend.com'; 'admin@palacegroup.co.za'; 'jill.smith@epalvend.com'; 'mbuso.dlamini@palacegroup.co.za'
Subject:	Request for allocation of hearing date - Rescission Application Case No.: 38401/2018
Attachments:	REREQUEST FOR ALLOCATION OF HEARING DATE – RESCISSION APPLICATION CASE NO 38401-2018.pdf

Dear Registrar

Please find attached the Applicant's request for allocation of a hearing date in respect of the pending rescission application under the above case number.

The rescission application papers, including the replying affidavit and supporting annexures, have been filed and served.

The matter is accordingly ripe for hearing and determination.

This email further serves as formal service upon the parties copied herein.

The Applicant respectfully records that, although issues relating to sequestration proceedings exist in separate matters, the Applicant has not yet received formal notification, proof of appointment, or contact details from the Master of the High Court or any appointed trustee and has accordingly copied the Master and the parties presently on record in the interests of procedural transparency pending confirmation of any trustee appointment and details.

Kindly acknowledge receipt and advise of any further enrolment requirements or directives.

Yours faithfully

EPHRAIM MBUSO DLAMINI
Applicant
(Self-Represented)

EPHRAIM MBUSO DLAMINI
30 Springhill Road
Riverclub
Sandton
Johannesburg
2191

Tel: 082 606 0492

Email: mbuso.dlamini@palacegroup.co.za

18 May 2026

The Registrar of the High Court
Gauteng Local Division, Johannesburg

Dear Registrar

RE: REQUEST FOR ALLOCATION OF HEARING DATE – RESCISSION APPLICATION CASE NO: 38401/2018

I respectfully request the allocation of a hearing date in respect of the pending rescission application in the above matter.

The application papers have been filed and served, including the replying affidavit and supporting annexures.

The matter is accordingly ripe for hearing and determination.

I respectfully request that the matter be allocated a hearing date on the opposed motion roll or such other roll as the Registrar may deem appropriate.

Kindly advise of the allocated date and any further procedural requirements for enrolment.

Yours faithfully

EPHRAIM MBUSO DLAMINI
Applicant (Self-Represented)

mbuso.dlamini@palacegroup.co.za

From:	mbuso.dlamini@palacegroup.co.za
Sent:	Saturday, 13 June 2026 16:16
To:	'jhboenrolment@judiciary.org.za'
Cc:	'Calvin Kekana'; 'Zeenath Kajee'; 'Zintle Ngogodo'; 'blesese@justice.gov.za'; 'simon.mabuza@epalvend.com'; 'admin@palacegroup.co.za'; 'jill.smith@epalvend.com'; 'greg.carlson@epalvend.com'; 'mbuso.dlamini@palacegroup.co.za'
Subject:	RE: Request for allocation of hearing date - Rescission Application Case No.: 38401/2018
Attachments:	REREQUEST FOR ALLOCATION OF HEARING DATE RESCISSION APPLICATION CASE NO 38401-2018.pdf; Email sent to the Registrar to Enrol the Rescission Application_ 1.pdf

Dear Registrar

I refer to my request dated 18 May 2026 for the allocation of a hearing date in the above matter.

For ease of reference, I attach:

1. The original request for allocation of a hearing date dated 18 May 2026; and
2. The email transmitting that request.

The rescission application, answering papers, replying affidavit and supporting annexures have been filed and served. The matter accordingly remains ripe for hearing and determination.

To date, I have not received confirmation of the allocation of a hearing date, nor any indication of further enrolment requirements.

I would therefore be grateful if the Registrar could kindly:
(a) advise whether the matter has been allocated a hearing date; alternatively
(b) advise of any further procedural steps required before allocation.

This email is copied to the parties for purposes of procedural transparency only.

I thank the Registrar for his or her assistance and look forward to receiving further directions.

Yours faithfully
EPHRAIM MBUSO DLAMINI
Applicant (Self-Represented)

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, 18 May 2026 19:47
To: 'jhboenrolment@judiciary.org.za' <jhboenrolment@judiciary.org.za>
Cc: 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: Request for allocation of hearing date - Rescission Application Case No.: 38401/2018

Dear Registrar

Please find attached the Applicant's request for allocation of a hearing date in respect of the pending rescission application under the above case number.

The rescission application papers, including the replying affidavit and supporting annexures, have been filed and served.

The matter is accordingly ripe for hearing and determination.

This email further serves as formal service upon the parties copied herein.

The Applicant respectfully records that, although issues relating to sequestration proceedings exist in separate matters, the Applicant has not yet received formal notification, proof of appointment, or contact details from the Master of the High Court or any appointed trustee and has accordingly copied the Master and the parties presently on record in the interests of procedural transparency pending confirmation of any trustee appointment and details.

Kindly acknowledge receipt and advise of any further enrolment requirements or directives.

Yours faithfully

EPHRAIM MBUSO DLAMINI
Applicant
(Self-Represented)

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 41440/18

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED:
DATE: 22 JUNE 2021

In the matter between:

PEG HR SOLUTIONS (PTY) LTD — Appellant
(Respondent in the matter under
GJ Case No. 34779/2018)

And

EPHRAIM MBUSO DLAMINI — Appellant
(Respondent in the matter under
GJ Case No. 38401/2018)

And

FIRST RAND BANK LIMITED — Respondent

(REGISTRATION NUMBER: 1929/001225/06) (Applicant in the matters under (GJ case numbers 34779/2018 and 38401/2018)

JUDGEMENT

MOTHA AJ (Kathree-Setiloane J and Malindi J concurring)

1. This is an appeal against the judgment and orders of the court *a quo* (Matojane J), dated 25 October 2019, in two applications. In the first application, under case number 34779/2018, the Court *a quo* ordered the final winding up of the Appellant, PEG HR Solutions (Pty) Ltd ("PEG") ("winding-up application"), and in the second, under case number 38401/2018, it ordered the Appellant, Mr Ephraim Mbuso Dlamini ("Mr Dlamini") to make payment in the sum of R27, 612, 987.75 to the Respondent, FirstRand Bank (Pty) Ltd ("FirstRand") ("suretyship application").

2. On July 2020 leave to appeal was granted by the court *a quo* to a Full Court of this Division.

3. In the winding-up application, FirstRand Bank sought the final winding-up of PEG on the grounds that it was unable to pay its debts as and when they fell due, as contemplated by section 344(f) of the Companies Act, 61 of 1973 (" Old Companies Act"). In the suretyship application, it sought payment from Mr Dlamini in the sum of R27, 612, 987.75, together with

interest and costs on an attorney and client scale. The cause of action against Mr Dlamini was a written deed of suretyship in terms of which Mr Dlamini bound himself, jointly and severally, as surety and co-principal debtor to PEG's debts in favour of FirstRand arising out of a loan facility.

4. The court a quo disposed of both applications in one judgement as a result of the interrelated nature. Correctly so, it did not consolidate the two applications as it is not competent in law to consolidate a winding-up application with a suretyship application. I will also deal with the appeals in the same manner as well.

5. **Background**

The facts in both appeals are the same and largely common cause. FirstRand and PEG concluded a loan agreement on 2 September 2008 in terms of which FirstRand approved a loan facility in favour of PEG for R64, 700, 000.00 ("loan agreement"). Between 2008 and 2014 the parties concluded numerous addenda to the loan agreement: October 2008, 2011, 2012 and 2013.

6. PEG signed an acknowledgement of debt on 6 June 2014, acknowledging that it had failed to meet its obligations to FirstRand in terms of the loan agreement, and that it was indebted to it, as at 19 May 2015, in the amount of R56, 318, 835.00 plus interest. It undertook to effect payment of the acknowledgement on certain terms, and agreed to settle it by no later than 30 November 2015.

7. In line with PEG's undertaking to settle the debt by 30 November 2015, on 9 December 2014, the parties amended the acknowledgment of debt and loan agreement by providing that the repayment period will expire on 30 November 2015.

8. On 25 August 2015, FirstRand wrote a letter to PEG granting it an extension to make payment in the amount of R20 million as part settlement by 31 August 2015 in reduction of the loan facility. It made it clear in the letter that no further non-performance would be condoned and that in the event that PEG failed to pay the part settlement on 31 August 2015, FirstRand will, without any further notice, proceed to recover from it the full amount owing to it.

9. PEG failed to make payment of the R20 million part settlement of the outstanding balance. It also failed to settle the acknowledged debt or comply with the terms of the acknowledgement of debt. As a result of PEG's breach, FirstRand demanded, in a letter dated 19 October 2019, that PEG make payment of the outstanding balance, and that if PEG neglects to pay the outstanding amount, or "to secure or compound for it to the bank's reasonable satisfaction", then PEG would be deemed to be unable to pay its debts in accordance with Section 345 of the old Companies Act.

10. PEG sought to rebut the deeming provision of section 345 by raising two contentions in the court *a quo*. These are that the debt outstanding was "compromised" or "compounded" and that it had provided security for it to the satisfaction of FirstRand as contemplated in section 345(1)(a)(i) of the old Companies Act. It accordingly argued that the court *a quo* ought to

have exercised its discretion against granting the winding-up order against it. The court *a quo* held in relation to the question of whether the parties had compounded the debt by entering into a compromise agreement as follows:

'[22] In the present matter, the compromise defense was raised for the first time after [FirstRand] filed its heads of argument. The terms of the alleged agreement, and how it would operate, have not been stated in the affidavit. [PEG] avers that the defence is premised on the facts that appear in the founding affidavit and which are common cause. PEG has failed to show that there were *animus contrahendi* between the parties regarding the conclusion of the alleged compromised agreement.

...

[25] Following the conclusion of the alleged compromise, the conduct of the parties demonstrates that there was no compromise agreement between them. On 9 May 2018, [FirstRand] again demanded payment of the outstanding indebtedness from PEG. In response, PEG's attorneys informed [FirstRand] that PEG had instructed them that the loan facility amount had been paid in full and that all the properties encumbered by the bonds should be released. [FirstRand] informed PEG that its indebtedness had not been settled in full and that it would proceed with the current application. PEG never complained of a breach of the alleged compromise until the heads of argument were filed.

[26] These exchanges of correspondence are dispositive of the allegations that there was a compromise agreement between the parties.'

11. On the question of "sufficiency of security", the court *a quo* held as follows:

'[31] [FirstRand] is relying on the deeming provisions concerning the inability of PEG to pay its debts contained in section 345 of the old Act to establish the insolvency of PEG. It requires a liquidator to be appointed, as soon as possible, to take control of PEG's assets and ascertain their true value to enable its, and other creditor's, security to be protected and to be better realised. Accordingly, the sufficiency of available security is not a bar to the applicant seeking the winding-up of PEG.'

12. FirstRand based its winding-up application on the ground that PEG was unable to pay its debts as and when they fell due, as contemplated by section 344(f) of the Companies Act 61 of 1973 read with item 9(1) of Schedule 5 of the Companies Act 71 of 2008 as amended. In terms of section 344(f), one of the circumstances in which a court may wind up a company is if the company is unable to pay its debts as described in section 345 of the old Companies Act. Section 345, in turn, provides:

'345. When company deemed unable to pay its debts –

(1) A company or body corporate shall be deemed to be unable to pay its debts if-

(a) a creditor, by cession or otherwise, to whom the company is indebted in a sum not less than one hundred rands then due-

(i) has served on the company, by leaving the same at its registered office, a demand requiring the company to pay the sum so due; or

(ii) in the case of any body corporate under this Act, has served such demand by leaving it as its main office delivering it to the secretary or some director, manager or principal officer of such body corporate or in such other manner as the Court may direct, and the company or body corporate has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or

(b) any process issued on a judgement, decree or order of any court in favour of a creditor of the company in return by the sheriff or the messenger with an endorsement that has not found sufficient disposable property to satisfy the judgement, decree or order or that any disposable property found did not upon sale satisfy such process; or

[Para. (b) substituted by s. 26 of Act 59 of 1978.]

(c) It is proved to the satisfaction of the Court that the company is unable to pay its debts.

(2) In determining for the purpose of subsection (1) whether a company is unable to pay its debts, the Court shall also take into account the contingent and prospective liabilities of the company.'

13. The questions on appeal are confined to the same two questions: namely whether the parties concluded a compromise agreement and whether PEG had secured the debt as contemplated in section 345(1)(a)(i) of the old Companies Act. I deal with each of them in turn.

Compromise or *Transactio*

14. The contention advanced by PEG in relation to compounding the debt is that it entered into compromise agreement with FirstRand which precluded FirstRand from pursuing a winding-up application based on its failure to pay the debt.

15. This contention was raised by the appellants in a supplementary affidavit after FirstRand had filed its heads of argument. The court *a quo* granted the appellants leave to file the supplementary affidavit, and thereafter considered the defence of compromise advanced in the affidavit. As referenced in the judgement of the court *a quo*,[1] The court in *Georgias v Standard Bank Charted Finance Zimbabwe Ltd*, [2] with reference to a number of South African authorities, described a "compromise or *transactio*" as "… the settlement by agreement of disputed obligations, or of a lawsuit the issue of which is uncertain. The parties agree to regulate their intention in a particular way, each receding from his previous position and conceding something – either diminishing his claim or increasing his liability".

16. PEG explains the origins of the compromise agreement in its supplementary affidavit as follows:

> ' I am advised that the defence of compromise is a defence at law. The facts in support of the defense already appear in the affidavits filed. I venture to say that that they are common cause. In brief they are the following.
>
> In October 2015, [FirstRand's] attorneys, ENS wrote to PEG demanding payment of the sum of R70 533 064. 35 which it claimed was owing at that stage. The applicants demand was made in terms of section 345 of the 1973 Act.

[1] Court a quo Judgement at para 20.
[2] 2000 (1) SA 126 (ZS) at 1381-140 D

On 5 November 2015, the PEG's erstwhile attorney responded to the above demand and raised the possibility of selling the Umhlanga Properties in order to pay the outstanding balance.

The exchange of this correspondence is referred to in more detail in paragraphs 43 to 51 of [FirstRand's] founding affidavit.

I am advised that the written correspondence constitutes a written contract of compromise. Both parties were represented by duly authorized representatives. At the very least a tacit agreement was concluded in the absence of a written agreement. In any event the parties carried out the terms of the agreement of compromise'

17. It is prudent to examine the written correspondence referred to by PEG as the foundation of its so called contract of compromise. The first letter dated 19 October 2015 is FirstRand's letter of demand in terms of Section 345 of the old Companies Act. The letter reads as follows in relevant part.

'3. "Pursuant to the Extension Letter, [dated 25 August 2015], PEG HR Solutions was granted an extension to make payment of the amount of R 20 000 000.00 (twenty million Rand) ("the Part Settlement") by 31 August 2015 in reduction of the loan facility. PEG HR Solutions has failed to make payment of the Part Settlement and is accordingly in breach of the Loan Agreement.

4. To date PEG HR Solutions has failed to rectify the breach and such failure constitutes an event of default as contemplated in clause 11 of the Loan Agreement, which entitles the Bank to claim immediate repayment of the Outstanding Balance (as defined in the Loan Agreement) and any other amounts owing by the Company to the Bank.

5. The Outstanding Balance of the Loan Amount as at 14 October 2015 was R70 533 064. 35, plus further interest thereon at the rate of prime plus 2% per annum, calculated from 14 October 2015 to date of payment ("the Outstanding Indebtedness").

6. The Bank has instructed us to demand, as we hereby do, that PEG HR Solutions make payment of the Outstanding Indebtedness.

7. If for three weeks after the date on which this letter is served upon PEG HR Solutions by leaving the letter at PEG HR Solutions' registered address, PEG HR Solutions has neglected to make payment of the outstanding indebtedness to the Bank, or to secure or compound for it to the Bank's reasonable satisfaction, then PEG HR Solutions shall be deemed to be unable to pay its debts as provided for in terms of section 345 of the Companies Act 61 of 1973, read with item 9, schedule 5 of the Companies Act 71 of 2008.'

18. In response, Asger Ganie Attorneys, representing PEG, wrote in a letter dated 5 November 2015, that they intended to explore the possibilities of engaging with one another with a view to finding a solution in order to avoid protracted litigation costs. To this end, the letter records:

'3.1 On or about 20 August 2008 our client entered into a Loan Facility Agreement and several subsequent addenda thereto with your client ("collectively referred to as the Loan Agreement").

3.2 The purpose of the Loan Agreement was to assist our client with financing the proposed development of Erven 2579, 2580, 2582 and 2583 Umhlanga Rocks ("the Property") and the payment of rates and taxes.

3.3 Our client has recently reconsidered its commitment to develop the Property and is exploring the possible option of selling it. Our client is in the process of engaging Tongaat Hulett Developments (Pty) Ltd in order to discuss and finalise the proposed sale.

3.4 Upon finalization of the transaction our client will be in a position to settle the Outstanding Balance of the Loan in full. In the interim our client is prepared to pay the interest on the Outstanding Balance at the agreed rate of prime plus 2% on a monthly basis until the finalisation of the transaction.

3.5 Our client is further prepared to make payment of the November and December 2015 interest in advance within 7 (seven) days of your acceptance of our proposal, where after it will pay the interest on the 1st day of each month in advance.

4. Please advise whether your client is amenable to the aforementioned proposal by noon on Friday, 6 November 2015.'

19. Since PEG alleges that a compromise has been effected, it bears the onus to prove that the parties entered into such a compromise. As a form of novation that involves the waiver of existing rights (or claimed rights), a compromise must be clearly and unambiguously proved. [3] *Animus contrahendi* is a *sine qua non* for the conclusion of a *transactio.* In other words, the party who alleges the conclusion of a compromise or *transactio* is required to demonstrate that the parties intended to conclude a compromise or *transactio* and to be contractually bound by it.

20. In determining whether or not the parties are intended to be bound contractually by the purported *transactio* or compromise, the court is required to examine the factual matrix which comprises of the proven facts which show what the parties intention was in respect of entering into the compromise. These would include the contemporaneous documents, the

[3] Christie, The Law of Contract in South Africa, 7th Edition at 528.

parties conduct in negotiating and communication with each other and, importantly, the steps taken to implement the purported compromise. [4]

21. PEG contends that the compromise was effected by virtue of the two letters of 18 October and 5 November 2015. Properly construed, these letters do not lend themselves to the interpretation contended for by PEG. At best for PEG, its attorneys (Asger Ganie) requested that FirstRand indicates whether it was amenable to its proposal to develop and sell the Umhlanga properties, and upon finalization of the sale transaction, to settle the Outstanding Balance at the agreed rate of prime plus 2% on a monthly basis until the finalisation of the transaction. It, furthermore, proposed to make payment of the "November and December 2015 interest in advance within 7 (seven) days of your acceptance of our proposal, where after it will pay the interest on the 1st day of each month in advance".

22. As I understand this letter, it was merely a proposal and not an offer made *animo contrahendi*, which upon acceptance would give rise to an enforceable agreement of a compromise or *transactio*. [5] Besides, at no point in the exchange of the correspondence between the parties, subsequent to the proposals made in the 5 November 2015 letter, did FirstRand accept the proposal.

[4] *Novartis SA (Pty)Ltd v Maphil Trading (Pty) Ltd 2016 (1) SA 518 (SCA) at para 45*
[5] *Pitout v North Cape Livestock Co-op Ltd* 1977 (4) SA 842 (A) at 850D

23. Moreover, and as the court *a quo* correctly pointed out, the Asger Ganie letter does not dispute the indebtedness of PEG to FirstRand. Far from it, it undertakes to settle the loan in full. This is inconsistent with a compromise or *transactio* which is the settlement by agreement of disputed obligations. Not only does PEG not dispute its obligation to pay it outstanding indebtedness to FirstRand, but it undertakes to settle the loan in full conditional on the sale of all four properties. This is alone would be dispositive of the argument that the parties entered into a compromise agreement.

24. Significantly, FirstRand Bank did not respond, in writing, to the letter of 5 November 2015 in which PEG's then attorneys (Asger Ganie) proposed the sale of the four Umhlanga Properties and the repayment arrangement conditional on their sale. However, on 10 February 2016, it wrote to Webber Wentzel attorneys (PEG's new attorneys of record) stating that it was advised that the four properties had been sold. Webber Wentzel responded in a letter dated 16 February 2016, that the properties had not been sold due to some confusion at the auction. This confusion arose from a purported offer to purchase from PGA Architects, an Umhlanga based firm. On 19 February 2016, ENS Africa responded, on behalf of FirstRand, in a letter stating that its "client is of the view that the confusion relating to the auction is a further strategic delay by your client to frustrate this matter. We furthermore wish to confirm that we hold instruction to proceed to institute proceedings against your client".

25. This was followed by a further letter of demand, dated 9 May 2015, in terms of section 345 of the old Companies Act. On 28 August 2016, on behalf of PEG, Nozuko Nxusani Inc responded by stating that the loan facility amount had been paid in full. On 3 September 2016, ENS Africa, wrote to Nozuko Nxusani Inc, indicating that this allegation is incorrect and that PEG is currently indebted to FirstRand in the amount of R27 612 987.75. It, accordingly, recorded its instructions "to proceed with institution liquidation proceedings against PEG as well as application proceedings against Mr Dlamini in terms of the suretyship executed by him". By any measure, conduct of this nature does not suggest that the parties intended to be contractually bound by a compromise or *transactio* between the parties.

26. The allegations relating to the auction and FirstRand's attitude to it, are pertinently set out in FirstRand's founding affidavit in both applications. It is telling that PEG's response to these allegations, in its answering affidavit, is that they are "irrelevant to the proceedings". However, as persuasively contended for, on behalf of FirstRand, their relevance is significant in determining whether the parties intended to be bound by the alleged compromise or *transactio*, as they form the background or surrounding circumstances that reveal the parties conduct and their intentions.

27. It is also significant that the parties meticulously recorded the various changes to the terms of the loan agreement and acknowledgement of debt by concluding various addenda.[6] The contention that a compromise agreement as entered into by tacit conduct is, therefore, in sharp contrast to the way the parties have conducted their affairs since the commencement of the loan agreement.

28. Thus, in view of the plethora of addenda and agreements which were meticulous in their terms, it is highly improbable that the parties would have agreed on a compromise without defining those obligations in a written agreement to that effect. As I see it, the whole defence of a compromise was nothing but an afterthought. When viewed against the objective facts, there is no evidence that the parties intended to be bound by a compromise agreement.

29. For these reasons, I am of the view that the court *a quo* did not err in concluding that the parties' conduct demonstrates that no compromise was concluded.

Sufficiency of Security

30. In relation to this issue of security, PEG alleges that it has sufficient assets to secure or compound the debt which should be to the reasonable satisfaction of FirstRand. Therefore, the Court *a quo* should have exercised

[6] On 30 August 2011 a further addendum was concluded.

its discretion against granting the order for winding-up or refer the matter for oral evidence.

31. The latter argument was, however, prudently abandoned since it was not advanced in the Court *a quo*.

32. Significantly, in this regard in Orestisolve (Pty) Ltd t/a Essa Investments v NDFT Investment Holdings (Pty) Ltd and Another,[7] in explaining the *ex debitio justitae* maxim, observed as follows:

> *"...The ex debito justitae maxim, I venture to suggest, conveys no more than that, once a creditor has satisfied the requirements for a liquidation order, the court may not on a whim decline to grant the order (and see Blackman op cit vol 3 at 14-91). To borrow another judge's memorable phrase, the court 'does not sit under a palm tree'. There must be some particular reason why, despite the making out of the requirement an order is withheld."*

33. The court *a quo* correctly found that FirstRand had established the jurisdictional requirements within the meaning of section 345 of the old Companies Act and had thus proved PEG's deemed inability to pay its debts. In the circumstances, FirstRand was entitled *ex debito justitae* to a winding-up order. Although conceding this in argument, counsel for PEG nevertheless argued that the court *a quo* erred in granting the winding-up order because it failed to take into consideration that Mr. Dlamini had a

[7] 2015 (4) SA 449 (WCC) at par 18.

continuing personal security in favour of the FirstRand in the sum of R30 million, and PEG had additional security comprising: (a) a covering mortgage bond in respect of the Umhlanga Rocks properties in the amount of R66 million; (b) a covering mortgage bond over the River Club properties in the amount of R20 million; and (c) a covering mortgage bond over the Buccleuch property in the amount of R5 million.

34. As I understand it, the question of the existence or otherwise of security as contemplated in section 345(1)(a)(i) of the old Companies Act is not a *bona fide* defence to a winding-up application but rather a factor which a court is required to take into account in the exercise of its discretion whether to grant a winding-up order or not. It is clear from the affidavit evidence before the court *a quo* that three of the Umhlanga properties had already been sold at auction and the proceeds were used towards part payment of the outstanding debt. FirstRand had also called up the personal security of R30 million provided by Mr Dlamini who, needless to say, failed to make good on it. As a result, FirstRand was required to launch the application against Mr Dlamini, as surety and co-principal debtor, for payment of the outstanding balance of R27 612, 987.75. Thus, in the circumstances where Mr Dlamini has failed to make good on his personal surety, and PEG is commercially insolvent, FirstRand would be entitled to a winding-up order. It should not be obliged to wait indefinitely for payment of an acknowledged indebtedness or to execute against immovable property of PEG.

35. The court *a quo*, in my view, took the security held by PEG into consideration and was satisfied that a winding-up order would enable the appointment of a liquidator to take control of PEG's assets, ascertain their true value and realise and dispose of them for the benefit of all creditors including FirstRand. The court *a quo* was also fully cognizant of the establishment of the *concursus creditorum* and the rationale for the limitation of the disposal of the assets of the company that is facing winding-up. In *Montic Dairy (Pty) Ltd v Mazars Recovery and Reconstructing (Pty) Ltd*[8], the Court held as follows:

> *"The rationale for the limitation of the disposal of the assets of a company that is facing liquidation is obvious. Once the application to wind up is lodged with the court, the public at large is informed of the true state of affairs in the company- essentially that it is unable to pay its debts and/or that its liabilities may exceed its assets. The lodging of the application then results in concursus creditorum and the hand of the court is thus placed on the insolvent company to preclude the dissipation of its remaining assets otherwise than in accordance with the scheme of payments sanctioned under the old Act."*

36. That being the case, the court *a quo* was correct in concluding that the existence of security is not a bar to granting a winding-up order. Nor do I consider it to have erred in concluding that "PEG has failed to discharge the onus of demonstrating that its indebtedness to [FirstRand] has indeed been disputed on a *bona fide* and reasonable grounds". Similarly, the court *a quo* did not err in granting FirstRand the relief it sought against Mr

[8] 2021 JDR 0217 (WCC) par 22

Dlamini in the suretyship application. FirstRand had demanded payment from Mr Dlamini which he ignored. He then advanced the same contentions in the suretyship application, as those advanced by PEG in the wind-up application, which the court *a quo* correctly rejected. FirstRand was accordingly entitled to enforce its claim against Mr Dlamini in terms of the suretyship agreement.

37. For all these reasons, the appeals against both applications must fail.

COSTS

38. I see no reason why costs should not follow the result in both appeals.

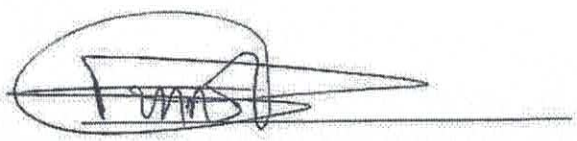
ORDER

In the result, I make the following order:

1. The appeal against the order under case number 34779/2018 is dismissed with costs.

2. The appeal against the order under case number 38401/2018 is dismissed with costs.

2. The appeal against the order under case number 38401/2018 is dismissed with costs.



MOTHA AJ

ACTING JUDGE OF THE HIGH COURT

GAUTENG LOCAL DIVISION, JOHANNESBURG

Appearances:

For the Appellant:	C. Georgiades
(Instructed by:	Nozuko Nxusani Inc.)
For the Respondent:	A Laher
(Instructed by:	Edward Nathan Sonnenbergs Inc.)

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG LOCAL DIVISION, JOHANNESBURG)

CASE NO: A5049/2020

JOHANNESBURG, 23rd June 2021

BEFORE THE HONOURABLE JUDGE KATHREE-SETILOANE
AND BEFORE THE HONOURABLE ACTING JUDGE MALINDI
AND BEFORE THE HONOURABLE ACTING JUDGE MOTHA

In the matter between:

2022 -04- 08

PEG HR SOLUTIONS (PTY) LIMITED **Appellant**
(Respondent in the matter under GJ Case No. 34779/2018

and

EPHRAIM MBUSO DLAMINI **Appellant**
(Respondent in the matter under GJ Case No. 38401/2018)

and

FIRSTRAND BANK LIMITED **Respondent**
(Applicant in the matters under GJ case numbers 34779/2018 and 38401/2018)

HAVING *read the documents filed of record and having considered that matter:-*

IT IS ORDERED THAT

1. The appeal against the order under case number 34779/2018 is dismissed with costs.

2. The appeal against the order under case number 38401/2018 is dismissed with costs.

BY THE COURT

REGISTRAR
lgpm

Supreme Court of Appeal, Registrar's Office • PO Box 258, Bloemfontein, 9300 • c/o Elizabeth- & President Brand Street, Bloemfontein •
Tel (051) 4127 400 • Fax (051) 4127 449 • www.supremecourtofappeal.gov.za

Enquiries: Ms De Wee | Date: 24 JUNE 2022 | Ref: 350//2022

YOUR REF: J Kally/M04858

Honey Attorneys
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YOUR REF: CVR/LP/EDW-001

Rosendorff Reitz Barry Attorneys
P O Box 41
BLOEMFONTEIN
9300

Mr/Ms

APPLICATION FOR LEAVE TO APPEAL
E M DLAMINI v FIRSTRAND BANK LTD

With reference to the application lodged in this office on 28 APRIL 2022 this Court ordered on 22 JUNE 2022 that the application be dismissed as per attached order:-

Yours faithfully

C L DE WEE (Ms)
REGISTRAR

REGISTERED POST (H/B/D/O)

YOUR REF: A 5049/2020 Kathree-Setiloane J, Malindi & Motha AJJ (Court *a quo*)

Registrar of the High Court
Cnr Von Brandis & Pritchard Street
JOHANNESBURG
2001

Copy for your information.

SUPREME COURT OF APPEAL OF SOUTH AFRICA

CASE NO: 350/2022
GJ CASE NO: A 5049/2020

BEFORE THE HONOURABLE JUSTICES MOTHLE JA AND GOOSEN AJA

On the 22nd JUNE 2022

In the application between:

EPHRAIM MBUSO DLAMINI	**Applicant**
and	
FIRSTRAND BANK LTD	**Respondent**

Having considered the Notice of Motion and the other documents filed.

IT IS ORDERED THAT:

1. **Condonation as applied for is granted. The applicant for condonation is to pay the costs of the application.**
2. **The application for special leave to appeal is dismissed with costs on the grounds that the requirements for special leave to appeal are not satisfied.**

BY ORDER OF THIS COURT

COURT REGISTRAR
C L DE WEE (Ms)

REGISTRAR OF THE SUPREME COURT OF APPEAL
SOUTH AFRICA

PO Box 258, Bloemfontein 9301

2021 -06- 24

SCA-003

REGISTRAR OF THE SUPREME COURT OF APPEAL
SOUTH AFRICA

CONSTITUTIONAL COURT OF SOUTH AFRICA

Case CCT 197/22

In the matter between:

EPHRAIM MBUSO DLAMINI Applicant

and

FIRST RAND BANK LIMITED (PTY) LIMITED Respondent

ORDER

CORAM: Zondo CJ, Maya DCJ, Baqwa AJ, Kollapen J, Majiedt J, Madlanga J Mathopo J, Mbatha AJ, Mhlantla J, Rogers J and Tshiqi J.

The Constitutional Court has considered the application for leave to appeal and has concluded that it does not engage the jurisdiction of the Court. Consequently, leave to appeal must be refused. The Court has decided not to award costs.

Order: Leave to appeal is refused.

REGISTRAR OF THE CONSTITUTIONAL COURT OF SOUTH AFRICA
P/Bag X1, Constitution Hill, Braamfontein 2017
2023 -01- 20
CC-001
REGISTRAR OF THE CONSTITUTIONAL COURT OF SOUTH AFRICA

STEPHEN CINDI
REGISTRAR
CONSTITUTIONAL COURT

TO: DIAHO ATTORNEYS INCORPORATED
Attorneys for the Applicant
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Ref: Dlamini/CC01

AND TO: EDWARD NATHAN SONNENBERGS INCORPORATED
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Ref: K Kotze / A Rousseau / 0401532

BUNDLE 1

STATEMENT OF ACCOUNT MATERIALLY DISPUTED

BUNDLE 1

STATEMENT OF ACCOUNT IS MATERIALLY DISPUTED

MASTER ADVOCACY BUNDLE

Purpose of this Bundle

This bundle is prepared to assist the Court in considering the Applicant's contention that the accounting foundation upon which the Respondent's claim, Summary Claim and Certificate of Balance depend is materially disputed.

The Applicant does not contend that every accounting issue must now be finally determined.

Rather, the purpose of this bundle is to demonstrate, by reference to the evidence already before the Court, that genuine and material disputes exist concerning the Respondent's accounting methodology and the calculation of the indebtedness relied upon in obtaining judgment.

Accordingly, this bundle should be read together with:

- the Founding Affidavit ("FA");
- the Answering Affidavit ("AA");
- the Replying Affidavit ("RA");
- the annexures thereto;
- the relevant CaseLines documents where applicable; and
- Chapter 4 of the Applicant's Heads of Argument.

Structure of this Bundle

The accounting challenge is presented in the following sequence:

1. Statement of Account
2. Unexplained Balance Movement
3. Principal Amount
4. Interest Calculation
5. Summary Claim
6. Certificate of Balance
7. PEG HR Reconstruction

Each section identifies:

- the legal proposition;

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- the relevant pleadings (FA, AA and RA);
- the supporting annexures;
- the CaseLines references where applicable; and
- the significance of the evidence to the rescission test.

Why the Statement of Account Matters

The Statement of Account is the starting point of the Respondent's accounting foundation.

From it flow:

- the calculation of the alleged principal indebtedness;
- the interest calculation;
- the Summary Claim;
- the Certificate of Balance; and
- ultimately the judgment sought to be rescinded.

The Applicant therefore respectfully submits that if material disputes exist concerning the Statement of Account, those disputes necessarily affect every subsequent accounting document derived from it.

Relationship to the Remaining Bundles

The Court is respectfully referred to:

Bundle 2 – Unexplained Bank Balance Movement

Bundle 3 – Principal Amount is Disputed

Bundle 4 – Interest Calculation is Disputed

Bundle 5 – Summary Claim is Disputed

Bundle 6 – Certificate of Balance Depends on Disputed Accounting

Bundle 7 – Reconstruction Supports Applicant's Accounting Analysis

Each bundle should be read as an integrated component of the Applicant's challenge to the accounting foundation relied upon by the Respondent.

Submission

The Applicant respectfully submits that this Master Bundle demonstrates that the challenge is directed not merely at isolated accounting entries but at the reliability of the accounting foundation as a whole.

For that reason, the disputes identified herein constitute an integral component of the Applicant's bona fide defence carrying prima facie prospects of success for purposes of the present rescission application.

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BUNDLE 2

UN-EXPLAINED BANK BALANCE MOVEMENT

Go to Audit Certificate Report

1 Merchant Place, Cnr Fredman Dr & Rivonia Rd, Sandton, ZA.GT, SOUTH AFRICA, 2196
PO Box 786273, Sandton, ZA.GT, SOUTH AFRICA, 2146
www.rmb.co.za
Registration No: 1929/001225/06
An Authorised Financial Service Provider

Enquiries:
Cara Mullin
Tel: +27 11 2828210
Fax: +27 11 2828328
E-mail: cara.mullin@rmb.co.za

RAND MERCHANT BANK
A division of FirstRand Bank Limited

PEG HR Solutions (Pty) Ltd

2 Osborn Rd

Houghton Office Park

4Th Floor Houghton

Johannesburg
2198
Attention:

Account Number: 0000002527
Account Name: PEG HR Solutions 2527 Term

Currency: ZAR

Lender Name: Rand Merchant Bank a division of FirstRand Bank Ltd

Date produced: 05/09/2018 10:40:31

Statement of Account
for the period 23 May 2014 to 05 September 2018

Date	Days	Base Rate Type	Base Rate	Base Rate Units	Margin	Margin Rate Units	All-In Rate	All In Rate Units	Drawdown	Total Payment	Capital Payment	Interest Payment	Interest Accrued	Interest Compounded	Total Balance
2014/11/18	0	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	39 469 859,09	0,00	0,00	0,00	0,00	0,00	39 469 859,09
2014/11/28	10	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	100 026,36	100 026,36	39 569 885,45
2014/12/01	3	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	30 083,95	0,00	39 599 969,40
2015/01/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	39 910 836,92
2015/02/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	40 221 704,45
2015/03/01	28	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	280 783,57	0,00	40 502 488,02
2015/04/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	40 813 355,54
2015/05/01	30	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	300 839,54	0,00	41 114 195,08
2015/06/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	41 425 062,61
2015/06/30	29	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	20 000 000,00	20 000 000,00	0,00	290 811,55	0,00	21 715 874,16
2015/07/01	1	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	4 959,50	0,00	21 720 833,66
2015/07/24	23	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	114 068,30	0,00	21 834 901,96
2015/07/31	7	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	158 082,19	0,00	0,00	0,00	35 654,72	0,00	22 028 638,87
2015/08/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 134,68	2 305 605,91	22 033 773,55
2015/08/31	30	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	161 369,86	0,00	0,00	0,00	172 044,53	0,00	22 367 187,94
2015/09/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 776,82	177 621,35	22 372 964,76
2015/09/30	29	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	156 164,39	0,00	0,00	0,00	158 869,91	0,00	22 697 999,06
2015/10/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 863,75	174 733,66	22 703 862,81
2015/10/31	30	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	183 185,96	183 185,96	22 887 048,77
2015/11/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	171 780,82	0,00	0,00	0,00	5 956,90	0,00	43 064 786,49 *
2015/11/20	18	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	201 727,67	0,00	43 266 514,16
2015/12/01	11	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	128 522,18	334 206,75	43 393 036,34
2016/01/01	31	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	359 330,01	359 330,01	43 752 366,35
2016/01/29	28	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	327 243,72	0,00	44 079 610,07
2016/02/01	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	36 859,87	364 103,59	44 116 469,94
2016/02/04	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	37 166,62	0,00	44 153 636,56
2016/02/23	19	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	64 133,82	0,00	0,00	0,00	281 318,03	0,00	44 519 088,41
2016/03/01	7	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	103 841,15	422 325,60	44 622 929,56
2016/03/18	17	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	254 595,21	0,00	44 877 524,77
2016/03/31	13	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	2 739,42	0,00	0,00	0,00	198 663,72	0,00	45 078 927,91
2016/04/01	1	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	15 282,77	468 541,70	45 094 210,68
2016/04/26	27	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	16 069,85	0,00	0,00	0,00	416 967,01	0,00	45 527 247,54
2016/05/01	3	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	46 346,16	463 313,19	45 573 593,72
2016/05/31	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	483 829,25	483 829,25	46 057 422,97
2016/06/20	19	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	9 804,00	0,00	0,00	0,00	299 688,71	0,00	46 366 915,68
2016/07/01	11	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	173 540,93	473 229,64	46 540 456,61
2016/08/01	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	494 093,88	494 093,88	47 034 550,49

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"FA24"
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2016/08/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIM	0.00	0.00	0.00	0.00	499 339.41	499 339.41	47 533 889.90
2016/10/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	488 361.88	488 361.88	48 022 251.78
2016/11/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	509 825.28	509 825.28	48 532 077.06
2016/12/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	498 617.23	498 617.23	49 030 694.29
2017/01/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	520 531.34	520 531.34	49 551 225.63
2017/02/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	526 057.53	526 057.53	50 077 283.16
2017/03/01	28	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	480 193.13	480 193.13	50 557 476.29
2017/03/02	1	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	6 920 483.00	0.00	0.00	0.00	17 314.21	0.00	57 495 273.50
2017/04/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	590 526.97	607 841.18	58 085 800.47
2017/04/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	37 178 678.83	26 203 560.00	10 975 098.83	39 784.80	39 784.80	20 046 908.44
2017/04/12	9	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	2 966 975.35	0.00	0.00	0.00	64 562.36	0.00	23 998 444.17
2017/05/01	19	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	155 734.16	220 296.54	24 154 178.33
2017/05/11	10	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	36 634.00	0.00	0.00	0.00	82 719.79	0.00	24 273 532.12
2017/06/01	21	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	173 975.02	256 694.81	24 447 507.14
2017/07/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	251 173.02	251 173.02	24 698 680.16
2017/07/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	251 173.02	0.00	251 173.02	16 916.91	16 916.91	24 464 424.05
2017/07/21	18	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	150 808.09	0.00	24 615 232.14
2017/08/01	11	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	241 125.38	0.00	241 125.38	93 317.29	241 125.38	24 464 424.05
2017/09/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	254 530.55	0.00	254 530.55	254 530.55	254 530.55	24 464 424.05
2017/10/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	246 319.89	246 319.89	24 710 743.94
2017/11/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	257 093.28	257 093.28	24 967 837.22
2017/12/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	251 388.50	251 388.50	25 219 225.72
2018/01/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	262 383.59	262 383.59	25 481 609.31
2018/02/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	265 113.46	265 113.46	25 746 722.77
2018/03/01	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	241 948.65	241 948.65	25 988 671.42
2018/03/29	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	244 222.31	0.00	26 232 893.73
2018/04/01	3	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	25 632.56	269 854.97	26 258 526.39
2018/05/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	258 988.21	258 988.21	26 517 514.60
2018/06/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	270 260.69	270 260.69	26 787 775.29
2018/07/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	264 206.20	264 206.20	27 051 981.49
2018/07/11	10	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	15 502.00	0.00	0.00	0.00	88 936.03	0.00	27 156 423.52
2018/08/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	186 876.88	275 814.91	27 343 300.40
2018/09/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	278 676.93	278 676.93	27 621 977.33
2018/09/05	4	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	36 324.79	0.00	27 658 302.12

← 07 May 2018 - R26 569 823.12

← 31 August 2018 - R27 612 987.75

Please note: Statement reflects interest accruals up to and excluding each line item date and thus excludes interest accrued for 05/09/2018

BUNDLE 3

PRINCIPAL AMOUNT IS DISPUTED

CAPITAL DRAWN ON 20 NOVEMBER 2008						
ITM NO	**DATE**	**DESCRIPTION**	**AMOUNT**	**PAYEE**	**PAYER**	**REMARKS**
1	20/11/2008	Settlement Due	R37 771 824,55	Nedbank	First Rand Bank Limited	FRBL moving PEG HR Solutions Pty Ltd from Nedbank to First Rand Bank Limited
2	20/11/2008	Settlement Due	R869 056,99	Nedbank	First Rand Bank Limited	91 Buccleugh
3	20/11/2008	Settlement Due	R2 052 510,94	ABSA	First Rand Bank Limited	598 / 9 River Club Ext 24
4	02/12/2008	Capital payment CoJ	R15 667,27	CoJ	First Rand Bank Limited	Rates & Taxes
5	02/12/2008	Capital payment Ethekwini	R375 466,94	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
6	02/12/2008	Capital payment Ethekwini	R386 909,60	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
7	02/12/2008	Capital payment Ethekwini	R476 827,51	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
8	02/12/2008	Capital payment Ethekwini	R488 487,88	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
TOTAL CAPITAL DRAWN			**R42 436 751,68**			**On 20.11.2008**

NEDBANK / FIRST RAND BANK LIMITED TRANSACTION OF 20 NOVEMBER 2008 - TRANSFER OF PEG HR SOLUTIONS PTY LTD FROM NEDBANK TO FIRST RAND BANK LIMITED				
ITM NO	**DATE**	**DESCRIPTION**	**AMOUNT**	**REMARKS**
1	20/11/2008	Settlement Due	R37 282 194,55	Per Nedbank Statements
2	20/11/2008	Nedbank Cancellation Fees	**R500,00**	Nedbank Fees
3	20/11/2008	14% VAT on Nedbank Cancellation Fees	**R70,00**	
4	20/11/2008	Early repayment fee	R429 000,00	Per PEG/Nedbank Agreement, attached
5	20/11/2008	14% VAT on charges early repayment fee	**R60 060,00**	
TOTAL PAYABLE TO NEDBANK			**R37 771 824,55**	**AS AT 20 NOVEMBER 2008**

22/5/2025-10:51:47 PM

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION
JOHANNESBURG
Private Bag X8, Johannesburg 2000
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION
JOHANNESBURG

CAPITAL DRAWN							
ITEM NO	**DATE**	**DESCRIPTION**	**AMOUNT**	**PAYEE**	**PAYER**	**REMARKS**	**ANNEXURE**
	SETTLEMENT OF NEDBANK LOAN FACILITY:						
1	20/11/2008	Settlement Due	R36 944 631,95	Nedbank	RMB		
2	20/11/2008	Cancellation Fee	R500,00	Nedbank	RMB		
3	20/11/2008	VAT on Charges Due	R70,00	Nedbank	RMB	14% VAT on the Cancellation Fee of R500.00	
4	20/11/2008	Settlement Interest Due	R337 562,60	Nedbank	RMB	Per PEG / Nedbank Loan Agreement Clasue 5.1, i.e. 1% of the Loan Amount of R42 900 000.00.	
5	20/11/2008	Early Repayment Fee	R429 000,00	Nedbank	RMB	Rates & Taxes	
6	20/11/2008	VAT on Early Repayment Fee	R60 060,00	Nedbank	RMB	14% VAT on the Early Settlement Fee of R429 000.00	
7		**SUB-TOTAL 1 - Total Settlement of Nedbank Loan Facility**	**R37 771 824,55**			**Transfer of PEG HR Solutions Pty Ltd from Nedbank Limited to First Rand Bank Limited, see the Pre-Agreement / Quotation by First Rand Bank Limited to PEG HR Solutions Pty Ltd dated the 02 July 2008.**	**26**
8	**SETTLEMENT OF BONDS:**						
9	20/11/2008	Nedbank Limited Bond Settlement	R869 056,99	Nedbank	RMB	For erf 91 Buccleuch	
10	20/11/2008	ABSA Bond Settlement	R2 052 510,94	ABSA	RMB	For erf 598, 599 Riverclub Ext 24	
11		**SUB-TOTAL 2 - Total Settlement of Bonds**	**R2 921 567,93**			**See the Pre-Agreement / Quotsation from First Rand Bank Limited to PEG HR Solutions Pty Ltd with an amount of R2 903 864.00**	**26**
12	**SETTLEMENT OF RATES AND TAXES**						
13	02/12/2008	Capital Payment City of Johannesburg	R15 667,27	City of Johannesburg	RMB	Rates & Taxes	
14	02/12/2008	Capital Payment Ethekwini Municipality	R375 466,94	Ethekwini Municipality	RMB	Rates & Taxes	
15	02/12/2008	Capital Payment Ethekwini Municipality	R386 909,60	Ethekwini Municipality	RMB	Rates & Taxes	
16	02/12/2008	Capital Payment Ethekwini Municipality	R476 827,51	Ethekwini Municipality	RMB	Rates & Taxes	
17	02/12/2008	Capital Payment Ethekwini Municipality	R488 487,88	Ethekwini Municipality	RMB	Rates & Taxes	
18		**SUB-TOTAL 3 - Total Settlement of Rates and Taxes**	**R1 743 359,20**				
19		**CAPITAL DRAWN**	**R42 436 751,68**			**Sub-Total 1 + Sub-Total 2 + Sub-Total 3**	

SIGNED at (full physical address) 165 WEST STREET, SANDTON, SOUTH AFRICA

on 08 November 2007 in the presence of the undersigned witnesses

Witness 1
(Print full names) MARCIA NOMBULELO MONDI

for the Borrower
(Print full names) **Ephraim Mbuso Dlamini**
Who warrants his authority hereto

Witness 2
(Print full names) Sylvia Rosenberg

SIGNED at (full physical address) **90 Ordnance Road, Kingsmead, Durban, 4001**

on 5 November 2007 in the presence of the undersigned witnesses :

Witness 1
(Print Full names) J.M. Mocke

for Nedbank Limited
(Print full names) **ANNE DONNELLY**

Witness 2
(Print full names) Sharon Robertson

for Nedbank Limited
(Print full names)
CHRISTOPHER LIONEL BELLINGAN

NEDBANK CORPORATE

PROPERTY LOAN AGREEMENT

Facility No. **20043146** Contract No: **30105056** **TAX INVOICE** VAT Registration Number : 4320116074

between **Nedbank Limited Reg No 1951/000009/06** ("the Bank")
of **90 Ordnance Road, Kingsmead, Durban, 4001**
its successors and assigns
and **PEG HR Solutions (Pty) Ltd**
Company Registration number **2003/025572/07** ("the Borrower")
of **5th Floor, Sandton City Office Tower, Banking Mall, Sandton, 2196** Business/Residential address (not a box number)
Facsimile No. **011-8834348**
herein represented by **Ephraim Mbuso Dlamini** in his capacity as **Director** of the Borrower duly authorised thereto in terms of a resolution of **Directors**

SCHEDULE

A. **LOAN AMOUNT** **R42 900 000**

The loan amount will be disbursed in accordance with the provisions of the letter of grant dated 26 October 2007 (as amended from time to time).

B. **ANNUAL FINANCE CHARGE RATE**

The annual finance charge rate ("AFCR") is a variable rate linked at a margin of 1% **(One per centum)** per annum below the Prime Rate, which rate means the publicly quoted prime lending rate of Nedbank Limited from time to time and which rate is a nominal, annual, compounded monthly in arrear rate ("the Prime Rate")
The AFCR as at the date of signature hereof is **13,00% (Thirteen comma zero zero per centum)**.

C. **TERM OF LOAN AND REPAYMENT**

C.1 Subject to variation as provided in this agreement, the term of loan shall be for a period of 6 (six) months from the date of registration of the Bond in D1, as determined by the Bank.

C.2 Interest shall be capitalised up to a maximum amount of R3 276 000 (Three thousand two hundred and seventy six million rand), thereafter the Borrower will be required to service the monthly interest on the loan

C.3 The loan will be converted to a development loan on or before month six, failing which it is to be repaid by a bullet payment in month six

C.4 The VAT refund for an amount of R4 637 614 (four million six hundred and thirty seven thousand six hundred and fourteen rand) is to be repaid into the borrower's loan account, within 4 (four) months from date of registration of the Bond. Upon receipt of the VAT refund on the land to the loan account, an amount of R4 637 614 (four million six hundred and thirty seven thousand six hundred and fourteen rand) will be retained and disbursed on a "retention to complete" basis.

C.5 A maximum of R930 000 (Nine hundred and thirty thousand rand) is available for the preliminary expenses of Phase 1. The Borrower is to finance the VAT thereafter. Input credits received by the borrower are to be paid into the loan account to facilitate further VAT disbursements if required

C.5 The balance outstanding (including but not limited to the balance of the loan amount, together with interest and other charges), shall be repaid in one final instalment on the date of expiry of the loan term

D. **SECURITY**

The Borrower acknowledges that it will provide the Bank with the following security for the repayment of the loan amount, interest and charges, namely :

D.1 The Borrower shall pass a **First** Covering Mortgage Bond in favour of Nedbank Limited for the sum of R360 000 000 (Three hundred and fifty million rand) over the property described as Erf 2579, 2580, 2582 and 2583 in extent 18 053 square metres.

D.2 The Borrower shall cause the following persons to bind themselves as limited surety and co-principal debtors for the performance of all the Borrower's obligations hereunder in favour of the Bank

D.3 The Borrower shall also provide the following additional security

Limited Suretyship of Ephraim Mbuso Dlamini for an amount of R30 000 000.
Limited Suretyship of Sibilant Investments (Pty) Ltd for 288 215 shares in Alstom SA (Pty) Ltd.

A cession and pledge in favour of the Bank by Sibilant Investments (Pty) Ltd for 288 215 shares in Alstom SA (Pty) Ltd

This schedule is incorporated in and forms an integral part of the agreement

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION JOHANNESBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION JOHANNESBURG

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1. LOAN
1.1 The Bank hereby lends and advances to the Borrower on a revolving loan basis the sums set out in item A of the schedule, such loan secured by a bond over the Borrower's property
1.2 Re-advances may be made in such manner as the Bank may determine
2. OPERATION OF FACILITY
2.1 The Borrower may utilise the facility by withdrawing sums from the facility account in such manner as the Bank may from time to time determine
2.2 The application for withdrawal shall be in writing in such form as the Bank provides and any such request for withdrawal shall be in multiples of R20 000 provided that not more than one application may be made in any one month
2.3 The Bank may in its sole discretion allow the Borrower to withdraw sums in such other amounts and periods as may be required from time to time.
2.4 The Borrower may not withdraw amounts so as to exceed the facility granted to him
3. INTEREST
3.1 All amounts lent by the Bank to the Borrower in terms of this agreement shall bear interest at the rate set out in the schedule which rate is either a fixed rate, a rate linked to a Bankers Acceptance Rate or a rate linked to the Prime Rate, as indicated in the schedule
3.2 The Prime Rate is quoted as a nominal annual compounded monthly rate. Should the period between instalments be other than a period of one month (i.e. instalments are not payable on a monthly basis) then the linked rate (determined with respect to the Prime Rate) will be converted to take account of the actual period between instalments
3.3 Interest shall be calculated on all amounts advanced by the Bank to or on behalf of the Borrower at the interest rate determined in the schedule from the date of each such advance
3.4 Where the interest rate payable by the Borrower in terms of this agreement is a rate linked to the Prime Rate then whenever the Prime Rate changes during the currency of this agreement, the amount payable under this agreement will vary with the result that the AFCR and the instalments set out in terms of this agreement will vary. The Borrower agrees that the Bank may, on or after the date of any change in the Prime Rate recalculate the instalments which fall due on or after the date of such change in accordance with the varied Prime Rate plus the margin which was agreed to in terms of this agreement. The Bank shall substitute the recalculated instalments payable in terms of this agreement. Any variation in the AFCR applicable in terms of this agreement due to a variation in the Prime Rate shall be effective notwithstanding any failure on the part of the Bank to notify the Borrower of such variation in the AFCR or any failure of the Bank to recover any varied instalments from the Borrower
3.5 The Borrower shall be obliged to make payment of instalments recalculated in accordance with this clause as advised to the Borrower from time to time. The Bank may issue revised schedules indicating the changes in the AFCR and instalments payable in terms of this agreement and such schedules shall be deemed to form part of this agreement whether or not signed by the Bank and the Borrower.
3.6 Should the AFCR in terms of this Agreement be a rate below the prime rate then after a period of two years from date of registration of the bond or final payment of the loan proceeds (whichever is the earlier) the Bank shall be entitled to review the interest rate on an annual basis and to increase such rate to a rate which is no greater than the Bank's publicly quoted prime rate of interest from time to time.
4. REPAYMENT
4.1 The loan shall be payable in the amounts, subject to variation in accordance with 3 above, and on the dates set out in the schedule
4.2 All payments in terms of this agreement shall be made without deduction of any kind and shall be free of any exchange, Bank costs and other charges and shall be paid at the address of the Bank as set out above or such other address as the Bank may from time to time notify the Borrower in writing
4.3 The Borrower shall, if so required by the Bank, deliver to the Bank a banker's stop order or a debit order or post-dated cheques or other payment instruments in respect of all payments to be made by the Borrower hereunder, none of which shall be construed or regarded as substituting, varying or novating the Borrower's obligations in terms of this agreement
4.4 The Borrower shall not have the right to defer, adjust or withhold any payment due to the Bank in terms of or arising out of this agreement or to obtain deferment of judgment for such amounts or deferment of execution of any such judgment by reason of any claim of defence, set-off or counter-claim of whatsoever nature and howsoever arising.
4.5 The Borrower shall be obliged to pay arrear interest on all amounts outstanding in terms of this agreement from the date such amounts became due and payable to date of payment thereof calculated at the AFCR agreed to in terms of this agreement or at the maximum rate permissible under the Usury Act 1968 (as amended) if applicable, whichever is the lower
5. EARLY REPAYMENT
In the event of the Borrower wishing to pay the outstanding amount of the loan and cancel the bond, within three (3) years a 1% (one per centum) cancellation fee will be charged on the original loan amount
6 FIXED RATE
In the event of this agreement bearing interest at a fixed rate, the following provisions shall apply upon the happening of any of the events of default as set out in clause 20 of this agreement:
6.1 the Bank shall be entitled, but not obliged, to regard this as a deemed early settlement of the capital and interest outstanding, and shall be entitled to recover from the Borrower, in addition to any cancellation fee / penalty set out in this agreement a sum to compensate the Bank for the loss which it may suffer as a result of such deemed early settlement. Such sum shall be paid on demand and shall be the difference between
6.1.1 the present value of the return on the repaid capital based on the fixed rate calculated from the date of the deemed early settlement until the last day of the fixed rate loan period; and
6.1.2 the present value of the return on the repaid capital based on the rate on investment obtaining by the Bank in respect of the repaid capital ("the reinvestment rate") calculated from the date of the deemed early settlement until the last day of the loan period.
6.2 The reinvestment rate shall be determined by the Bank using the JSE Gilt Yield Curve as quoted on the date of the deemed early settlement and shall be fixed for the relevant period
6.3 For the avoidance of any doubt the purpose of clause 6.1 is to ensure that the Bank will receive the same return in respect of the loan for the fixed rate loan period as it would have received had there been no such deemed early settlement save that no account shall be taken of variations in the fixed rate which occur after the date upon which the reinvestment rate is determined
6.4 The AFCR in terms of the agreement shall be increased to a rate which is 3% above the prime rate in the event of the Bank regarding the breach as a deemed early settlement
6.5 For the purposes of this clause the date on which the Bank regards the breach as a deemed early settlement of the capital and interest outstanding shall be in the Bank's sole discretion.
7. LEGISLATIVE CHANGES
7.1 If, during the currency of this agreement, any new law, rule or regulation is adopted or there are any changes made to any present or future law, rule or regulation pertinent to banks (hereinafter collectively referred to as "the law") or should any changes occur in the interpretation or administration of the law by any relevant fiscal or monetary authority or if any compliance by the Bank with any directive or request, whether or not having the force of law, from any authority, which
7.1.1 subjects the Bank to any new tax, duty or other charge in respect of or arising directly or indirectly from this agreement; or
7.1.2 imposes new or modifies the existing minimum liquid assets and/or reserves required to be held by the Bank in terms of the Banks Act, 94 of 1990 or
7.1.3 imposes on the Bank any other obligation concerning this agreement
and as a consequence the costs to the Bank of maintaining or funding the loan is increased or decreased, then the amount to be repaid by the Borrower to the Bank under this agreement shall increase or decrease by such amount as is necessary to place the Bank in the same position as it would have been in had such increase or decrease not occurred. If any dispute arises between the Borrower and the Bank as to the amount of any such increase or decrease, that dispute shall be referred to the Bank's auditors, who shall act as experts and not as arbitrators and whose decision as to the amount of that increase or decrease shall be final and binding on the parties
8. SECURITY
8.1 The Borrower shall as security for the repayment of all amounts which may be owing by the Borrower to the Bank in terms of this agreement and the proper and timeous fulfilment of all obligations of the Borrower to the Bank in terms of this agreement, provide the security referred to in the schedule
8.2 The failure of the Borrower to provide the security referred to in the schedule shall constitute a breach of this agreement
9. FINANCIAL STATEMENTS
Throughout the period of the Loan the Borrower will be required to provide satisfactory evidence of the Borrower's continued ability to service the Loan. Consequently, it is a condition of this Loan that the audited (if applicable) annual financial statements and/or audited annual statements of assets and liabilities of the Borrower and of each of the sureties be forwarded to the Bank each year, not later than four months after their respective financial year ends
10. WITHDRAWAL
10.1 If, at any time, in the opinion of the Bank, there is a material deterioration in the market value of the Property due to any cause whatsoever or in the Borrower's ability to service the Loan, then the Bank reserves the right to call up the Loan upon which all amounts outstanding will become immediately due and payable. In the event that the Loan has yet to be advanced, the Bank reserves the right to withdraw from this agreement and cancel any guarantees or undertakings given on behalf of the Borrower
10.2 In the event that the Loan is withdrawn in terms of paragraph 10.1 above, the Bank reserves the right to claim any wasted costs incurred on behalf of the Borrower
11. CERTIFICATE
A certificate under the hand of any Manager or Branch Manager of the Bank (whose appointment as such it shall not be necessary to prove) as to -
11.1 the Prime Rate at any time, and/or
11.2 any amount owing by the Borrower to the Bank in terms of this agreement or arising out of or pursuant to a breach of any term or condition of this agreement or the termination for whatsoever reason of this agreement or any damages that the Bank may have suffered by reason thereof, shall constitute *prima facie* proof of the matters therein stated and shall be sufficient for all purposes including the purpose of obtaining any judgment or provisional sentence against the Borrower.
12. NOTICES AND DOMICILIUM
12.1 The parties choose as their *domicilium citandi et executandi* their respective addresses set out above for all purposes arising out of or in connection with this agreement at which addresses all processes and notices arising out of or in connection with this agreement, its breach or termination may validly be served upon or delivered to the parties
The parties shall be entitled to change their *domicilium citandi et executandi* to any other physical address within the Republic of South Africa provided that such change shall only take effect upon the party concerned giving ten days written notice thereof to the other parties
12.2 Any notice given in terms of this agreement shall be in writing and shall -
12.2.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery
12.2.2 if posted by pre-paid registered post be deemed to have been received by the addressee on the 8th (eighth) business day following the date of such posting, and
12.2.3 if transmitted by facsimile be deemed to have been received by the addressee 1 (one) business day after dispatch.
12.2.4 Notwithstanding anything to the contrary contained in this agreement, a written notice of communication actually received by one of the parties from another including by way of facsimile transmission shall be adequate written notice or communication to such party

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13. WHOLE AGREEMENT
This agreement together with the Letter of Grant constitutes the whole agreement between the parties as to the subject matter hereof no representations or warranties between the parties other than those set out herein are binding on the parties and there are no oral or written collateral agreements which in any way vary, modify or suspend the operation of this agreement. In the event of any conflict between this agreement and the Letter of Grant the provisions of this agreement will prevail. This agreement was fully completed prior to the signature thereof
14. VARIATION
No variation, alteration, consensual cancellation, addition to or novation of this agreement and no waiver by the Bank of any of its rights hereunder shall be of any force or effect unless reduced to writing and signed by all the parties or their duly authorised representatives.
15. RELAXATION
No latitude, extension of time or other indulgence which may be given by the Bank to any other party in respect of the performance of any obligation hereunder or enforcement of any right arising from this agreement, and no single or partial exercise by the Bank of any right shall under any circumstances be construed to be an implied consent by the Bank or operate as a waiver or a novation of or otherwise affect any of the Bank's rights in terms of or arising from this agreement or estop the Bank from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
16. SUBMISSION TO JURISDICTION
16.1 The Borrower hereby consents to the jurisdiction of the Magistrate's Court having jurisdiction over it in terms of Section 28 of the Magistrates Courts Court Act No 32 of 1944 in respect of all proceedings connected with this agreement
16.2 notwithstanding that the amount claimed or the value of the matter in dispute exceeds such jurisdiction provided that the Bank shall not be obliged to institute proceedings in the Magistrate's Court.
16.3 The Bank shall be entitled to institute proceedings against the Borrower in connection with this agreement in the High Court of South and the Borrower hereby consents and submits to the jurisdiction of that Court
16.4 if the Bank institutes proceedings in any division of the High Court of South Africa the costs awarded against the Borrower shall be awarded on the basis set out in clause 17.2 and paid in accordance with the High Court tariff notwithstanding that the amount claimed or the value of the matter in dispute falls within the jurisdiction of the Magistrate's Court
17. COSTS
17.1 The Borrower shall pay -
17.1.1 all costs of and incidental to the preparation of this agreement, and
17.1.2 all costs of drawing and registering any security required by the Bank as security for the due and proper payment of all amounts due and the performance of all obligations in terms of this agreement
17.1.3 together with stamp duty on this agreement and any security on demand
17.2 The Borrower agrees that if the Bank exercises its rights in terms of this agreement, the Borrower shall be obliged to pay to the Bank on demand such costs, expenses and amounts which the Bank may incur or pay including, in particular but without derogating from the generality of the aforegoing, all legal costs which the Bank may incur on the scale as between an attorney and his own client, collection commissions, tracing agent charges, stamp duties, taxes and other disbursements including costs incurred by the Bank in proving its claim in the event of the death, incapacity, insolvency or liquidation of the Borrower and in taking steps to protect its interests in terms hereof
18. SET-OFF
The Bank shall be entitled to set-off any payment due or owing or which may become due or owing by the Bank to the Borrower from whatsoever cause arising against any indebtedness which is or may become due or owing by the Borrower to the Bank in terms of this agreement.
19. APPROPRIATION
The Bank is irrevocably authorised to apply any monies received by it from the Borrower in terms of this agreement against any indebtedness of the Borrower to the Bank in such manner as the Bank in its entire discretion may deem fit, and the Borrower hereby waives the right to name the debt to which any money so paid should be appropriated or to contend that any such money should be appropriated to any particular debt or to the earlier or most burdensome debt. In the event of appropriation or re-appropriation by the Bank in terms of this clause, the Borrower shall immediately make good any shortfall in amounts payable in terms of this agreement.
20. BREACH CLAUSES (EVENTS OF DEFAULT)
20.1 An event of default shall occur if -
20.1.1 the Borrower -
20.1.1.1 fails to make punctual payment of any amount payable in terms of this agreement, or
20.1.1.2 commits a breach of any of the terms of this agreement or of any other agreement between the parties (all of which are agreed to be material), or
20.1.1.3 allows any judgment against it to remain unsatisfied for a period of 7 (seven) days, or
20.1.1.4 commits any act referred to as an act of insolvency in the Insolvency Act as read together with the Companies Act 61 of 1973 and the Close Corporations Act 69 of 1984, or
20.1.1.5 compromises or attempts to compromise or defer payment of any debt owing by the Borrower to any or all of its creditors generally, or
20.1.1.6 being a natural person dies or being a partnership is dissolved, or
20.1.1.7 being a trust is discharged, varied, revoked or wound up, or being a company or close corporation is provisionally or finally wound up, liquidated or placed under judicial management, or
20.1.1.8 being a natural person or partner shall be provisionally sequestrated, or
20.1.1.9 being a company sustains a change in shareholders so that control of the Borrower is vested in persons other than the Borrower's controlling shareholders as at the date of signature of this agreement (provided this sub-clause shall not apply in the case where a Borrower is a company listed on any recognised Stock Exchange), or
20.1.1.10 being a close corporation sustains a change of members for any reason so that the control of the Borrower is vested in persons other than the Borrower's controlling members as at the date of signature of this agreement, or

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20.1.1.11 sells the whole or a major portion of the Borrower's business assets, or
20.1.1.12 makes an incorrect or untrue statement or representation in connection with this agreement or the Borrower's financial affairs or any relevant particulars thereof, or
20.1.1.13 generally does anything which may prejudice the Bank's rights in terms of this agreement or omits to take steps to prevent such prejudice, loss or damage to the Bank, or
20.1.1.14 is in breach of any security provided in the schedule or agreement therewith; or
20.1.2 any of the above events of default occur in respect of any natural person partnership, trust, company or close corporation which is surety for or co-principal debtor with the Borrower
20.2 Upon the happening of an event of default or any other event which is material and gives rise to a right of cancellation at common law, the Bank shall be entitled, but subject to the provisions of the Usury Act, if applicable, including the giving of notice, in addition and without prejudice to any other remedy which the Bank may have in terms of this agreement or in law and in particular without prejudice to any right to recover arrear payments, interest thereon or damages, forthwith and without notice to enforce this agreement and to accelerate the Borrower's obligations hereunder and accordingly to claim and recover immediate payment of all further instalments (adjusted in terms of the Usury Act 73 of 1968 where applicable) falling due after the date of the event of default together with all other monies for which the Borrower may be liable in terms of this agreement, all of which shall become immediately due and payable.
20.3 Upon the happening of an event of default the AFCR in terms of the agreement shall be increased to a rate which is 3% above the prime rate
21. RENUNCIATION OF BENEFITS
The Borrower hereby expressly waives and renounces -
21.1 the exceptions non *numeratae pecuniae*, *non causa debiti* revision of accounts, no value received, *errore calculi* and *de duobus vel pluribus reis debendi* insofar as each may be applicable and declares himself to be fully acquainted with the meaning and effect of those exceptions and the renunciation thereof;
21.2 any rights and privileges conferred on the Borrower under the Agricultural Credit Act No 28 of 1966 and/or the Moratorium Act No. 25 of 1963 and/or the Prescription Act No. 68 of 1969, all as amended from time to time; and
21.3 any right to claim an accounting from the Bank
22. INTERPRETATION
Any reference to -
22.1 the singular includes the plural and *vice versa*;
22.2 natural persons includes legal persons and *vice versa*; and
22.3 a gender includes the other genders.
22.4 The clause headings in this agreement have been inserted for convenience only and shall not be taken into account in its interpretation
22.5 This agreement shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa
23. SEPARATE AND SEVERABLE
The parties agree that each clause of this agreement is separate and severable from the remaining provisions thereof and if any provision of this agreement is or is retrospectively found to be defective or rendered unenforceable, then that provision only shall be deemed to be modified to the extent and in the manner necessary to render it consistent with the enactment rendering it unlawful or, if such modification is impossible, to be *pro non scripto*. The remaining clauses shall continue to be of full force and effect.
24. CESSION
24.1 The Borrower shall not cede any of its rights nor assign any of its obligations under this agreement without the prior written consent of the Bank
24.2 The Bank shall be entitled without notice to the Borrower to cede all or any of its rights under this agreement either absolutely or as collateral security to any other person or persons and whether such cession is made to the cessionary alone or the cessionary jointly and severally with the Bank or any other person or persons the Borrower shall if so required by the cessionary make payments directly to such cessionary
25. SIGNATURE OF THE AGREEMENT
25.1 If two or more Borrowers sign this agreement their liability shall be joint and several. If this agreement is not signed by all persons named as Borrowers or by all partners of the Borrower (if a partnership) this agreement shall nevertheless be and remain binding on the Borrowers who have signed this agreement or on the Borrower being a partnership (as the case may be).
25.2 If the Borrower signs this agreement as a trustee or agent for a company or close corporation about to be incorporated then the Borrower shall be deemed to be personally liable in terms of this agreement should the company or close corporation not be incorporated, obtain a certificate to commence business (where appropriate) and ratify and adopt the agreement within 30 (thirty) days of the date of signature of this agreement.
26. CONTENTS OF AGREEMENT
The Borrower warrants that they have read and understood the contents of this agreement
27. SPECIAL TERMS AND CONDITIONS
27.1 This agreement may be subject to special terms and conditions annexed hereto
27.2 In the event of this loan being a building loan a building loan addendum shall be annexed hereto
28. FICA CONDITIONS
28.1 The Borrower undertakes to furnish the Bank with such documents as it may require to comply with the Financial Intelligence Centre Act 38 of 2001, the Regulations pertaining thereto, any guidance notes applicable to the banking sector and/or any internal policies and procedures which the Bank is required, from time to time, to implement in order to establish and verify the identity of contracting parties and/or information which the Bank has received
28.2 The Borrower acknowledges that from time to time, the Bank may, at its discretion, ask the Borrower, its employees, representatives or authorised agents such questions as may be necessary to verify that the proceeds and utilisation of any banking facility by the Borrower is consistent with the nature, size and frequency of the transactions one would ordinarily expect for the Borrower's business. The Borrower undertakes to answer these questions promptly and to the satisfaction of the Bank, to enable the Bank to comply fully with its obligations in terms of the Financial Intelligence Centre Act 38 of 2001.

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NEDBANK
CORPORATE

PROPERTY LOAN AGREEMENT

Facility No: **20043146** Contract No: **30105056** **TAX INVOICE** VAT Registration Number : 4320116074

between **Nedbank Limited Reg No 1951/000009/06** ("the Bank")
of **90 Ordnance Road, Kingsmead, Durban, 4001**
its successors and assigns
and **PEG HR Solutions (Pty) Ltd**
Company Registration number : **2003/025572/07** ("the Borrower")
of **5th Floor, Sandton City Office Tower, Banking Mall, Sandton, 2196** Business/Residential address (not a box number)
Facsimile No. **011-8834348**
herein represented by **Ephraim Mbuso Dlamini** in his capacity as **Director** of the Borrower duly authorised thereto in terms of a resolution of **Directors**

SCHEDULE

A. **LOAN AMOUNT** **R42 900 000**

The loan amount will be disbursed in accordance with the provisions of the letter of grant dated 26 October 2007 (as amended from time to time).

B. **ANNUAL FINANCE CHARGE RATE**

The annual finance charge rate ("AFCR") is a variable rate linked at a margin of 1% (One per centum) [illegible] below the Prime Rate, which rate means the publicly quoted prime lending rate of Nedbank Limited from time to time and which rate is a nominal annual rate compounded monthly in arrear rate ("the Prime Rate").
The AFCR as at the date of signature hereof is **13,00% (Thirteen comma zero zero per centum)**.

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4.4. The Borrower shall not have the right to defer, adjust or withhold any payment due to the Bank in terms of or arising out of this agreement or to obtain deferment of judgment for such amounts or deferment of execution of any such judgment by reason of any claim of defence, set-off or counter-claim of whatsoever nature and howsoever arising.

4.5. The Borrower shall be obliged to pay arrear interest on all amounts outstanding in terms of this agreement from the date such amounts became due and payable to date of payment thereof calculated at the AFCR agreed to in terms of this agreement or at the maximum rate permissible under the Usury Act 1968 (as amended) if applicable, whichever is the lower

5. **EARLY REPAYMENT**

In the event of the Borrower wishing to pay the outstanding amount of the loan and cancel the bond, within three (3) years a 1% (one per centum) cancellation fee will be charged on the original loan amount.

6. **FIXED RATE**

In the event of this agreement bearing interest at a fixed rate, the following provisions shall apply upon the happening of any of the events of default as set out in clause 20 of this agreement:

6.1 the Bank shall be entitled, but not obliged, to regard this as a deemed early settlement of the capital and interest outstanding, and shall be entitled to recover from the Borrower, in addition to any cancellation fee / penalty set out in this agreement a sum to compensate the Bank for the loss which it may suffer as a result of such deemed early settlement. Such sum shall be paid on demand and shall be the difference between

6.1.1 the present value of the return on the repaid capital based on the fixed rate, calculated from the date of the deemed early settlement until the last day of the fixed rate loan period; and

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, JOHANNESBURG

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RAND MERCHANT BANK
A division of FirstRand Bank Limited

INDICATIVE TERM SHEET AS PROPOSED BY RMB

This term sheet is subject to credit approval and should in no way be seen as an offer of funding in any way or form. This document is strictly confidential and is not for publication or circulation. The financial arrangement outlined herein is for the use and benefit of Special Purpose Vehicle ("SPV") ("the Borrower") to whom this is submitted in good faith, and who is deemed to have accepted responsibility for ensuring the confidentiality of this document.

Borrower	Mbuso Dlamini (for and on behalf of the SPV)
Loan Amount	R56,865,000 (Fifty six million eight hundred and sixty five thousand Rand)
Term	24 months from date of first drawdown (The Loan Amount to be settled within the 24 month period)
Disbursements	• R38,021,136 (Thirty eight million twenty one thousand one hundred and thirty six Rand) to settle the outstanding balance on the existing loan with Nedbank; • R1,260,000 for the payment of the security raising fee (as defined below); • R 2,903,864 (Two million nine hundred and three thousand eight hundred and sixty four Rand) as partial repayment of the existing shareholder's loan; and • Interest capitalisation up to R14,680,000 (Fourteen million six hundred and eighty thousand Rand).
Administration Fee	Payable on drawdown of facility an amount of R1,260,000 (One million two hundred and sixty Rand) (excluding VAT).
Security Release Fee	Should this Loan not be refinanced by RMB at the expiry of the Term, an amount of R3,700,000 (Three million seven hundred thousand Rand)
Repayment	Interest to be capitalised during the Term
Rate	Floating at Prime minus 1% interest rate for the Term
Security	• First covering mortgage bonds totalling R70,000,000 (Seventy million Rand) over the subject properties; • Cession of 100% of the shares in the SPV; • A limited surety from Mbuso Dlamini or an entity acceptable to the Bank for R15 million.
Property	Collectively the erven 2579, 2580,2582 and 2583 situate on the proposed portion 1251 (of 829) of the Farm Lot 31 No 1560 to be re-designated on registration to Erf 2580 Umhlanga Rocks, eThekwini Municipality, Registration Division FU.
Credit Approval	RMB is in the process of obtaining credit approval from the FirstRand Bank Limited Credit Committee, and the terms and conditions of this document are subject to final approval by the FirstRand Bank Limited Credit Committee.
Profit Participation	RMB will have a 15% carry in all future developments financed over the Property. Should RMB not be involved in the financing of the development of the Property then the security release fee (as defined above) will apply. Please note that future developments are subject to further credit approval from the FirstRand Bank Limited Credit Committee and any decision for future development funding is subject to final approval by the FirstRand

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RAND MERCHANT BANK
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	Bank Limited Credit Committee.
Covenant	The outstanding balance of the Facility must not be greater then 65% of the value of the Property
Some pertinent conditions	The facility in terms of this agreement is subject to the following: 1. The separate erven comprising the Property are to have the following available bulk: a. Erf 2583 – 4,971 sqm; b. Erf 2582 – 4,831 sqm; c. Erf 2580 – 4,175 sqm; d. Erf 2579 – 4,075 sqm. 2. A valuation report to be conducted by and to be acceptable to RMB on the Property for an amount of not less than R87 [illegible] on the Property as is. The cost of the valuation to be borne by RMB; 3. An acceptable engineering report in terms of the Bulk services (timing and availability) – Specific to water, electricity and sewer or acceptable service level agreement with council; 4. On request, a municipal account in respect of the Property confirming that all municipal service fees; consumption charges; property rates and other municipal taxes; levies and duties and any interest or surcharges on these amounts have been paid and that no legal action is pending for recovery of these amounts; 5. Audited financial statements acceptable to RMB of the sureties and the Borrower; 6. Confirmation from Tongaat Hulett that an extension for the commencement of the development of the Property will be granted; 7. Receipt by RMB of the original sale agreement of the Property containing terms acceptable to RMB; 8. The Bank's standard loan conditions for this type of Facility will apply.
Mandate	By accepting and signing this term sheet, the Borrower / shareholders of the Borrower mandates FirstRand Bank ("FirstRand Bank") on an exclusive basis to provide the funding on the terms set out herein. Should you cancel this mandate, the Borrower undertakes to pay FirstRand Bank a R300,000 cancellation fee.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG LOCAL DIVISION, JOHANNESBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG LOCAL DIVISION, JOHANNESBURG

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RAND MERCHANT BANK
A division of FirstRand Bank Limited

Morne Wilken

RMB Investment Banking Division – Property Finance

Date: 02/07/2008

Kentt Ellis

RMB Investment Banking Division – Property Finance

Date: 02/07/2008

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

Signed as acceptance of the terms above:

Mbuso Dlamini on behalf of the Special Purpose Vehicle

Date: 02/07/2008

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BUNDLE 4

INTEREST CALCULATION IS DISPUTED

ITEM NO	DESCRIPTION	AMOUNT	
		FIRST RAND BANK as at 31 August 2018	PEG HR / DLAMINI as at 03 April 2017
1	Capital Drawn	R46 831 118	R42 436 751,68
2	Initial / Restructure Fees	R3 613 800	R0,00
3	Interest	R56 436 102	R42 436 751,68
4	Rates and Taxes Funded	R14 907 458	R9 907 458,00
5	Legal Fees	R164 883	R0,00
6	Repayments	-R94 340 373	-R116 643 992,34
7	Subtotal (per respective column dates)	R27 612 988	-R21 863 030,98

CAPITAL DRAWN ON 20 NOVEMBER 2008						
ITM NO	**DATE**	**DESCRIPTION**	**AMOUNT**	**PAYEE**	**PAYER**	**REMARKS**
1	20/11/2008	Settlement Due	R37 771 824,55	Nedbank	First Rand Bank Limited	FRBL moving PEG HR Solutions Pty Ltd from Nedbank to First Rand Bank Limited
2	20/11/2008	Settlement Due	R869 056,99	Nedbank	First Rand Bank Limited	91 Buccleugh
3	20/11/2008	Settlement Due	R2 052 510,94	ABSA	First Rand Bank Limited	598 / 9 River Club Ext 24
4	02/12/2008	Capital payment CoJ	R15 667,27	CoJ	First Rand Bank Limited	Rates & Taxes
5	02/12/2008	Capital payment Ethekwini	R375 466,94	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
6	02/12/2008	Capital payment Ethekwini	R386 909,60	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
7	02/12/2008	Capital payment Ethekwini	R476 827,51	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
8	02/12/2008	Capital payment Ethekwini	R488 487,88	Ethekwini Munic	First Rand Bank Limited	Rates & Taxes
TOTAL CAPITAL DRAWN			**R42 436 751,68**			**On 20.11.2008**

NEDBANK / FIRST RAND BANK LIMITED TRANSACTION OF 20 NOVEMBER 2008 - TRANSFER OF PEG HR SOLUTIONS PTY LTD FROM NEDBANK TO FIRST RAND BANK LIMITED				
ITM NO	**DATE**	**DESCRIPTION**	**AMOUNT**	**REMARKS**
1	20/11/2008	Settlement Due	R37 282 194,55	Per Nedbank Statements
2	20/11/2008	Nedbank Cancellation Fees	**R500,00**	Nedbank Fees
3	20/11/2008	14% VAT on Nedbank Cancellation Fees	**R70,00**	
4	20/11/2008	Early repayment fee	R429 000,00	Per PEG/Nedbank Agreement, attached
5	20/11/2008	14% VAT on charges early repayment fee	**R60 060,00**	
TOTAL PAYABLE TO NEDBANK			**R37 771 824,55**	**AS AT 20 NOVEMBER 2008**

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"FA25"

Summary of total payments and receipts	
Capital Drawn	46 831 118
Initial / Restructure Fees	3 613 800
Interest	56 436 102
Rates and taxes funded	14 907 458
Legal fees	164 883
Repayments	-94 340 373
Balance 31 Aug 2018	27 612 988

BUNDLE 5

SUMMARY CLAIM IS DISPUTED

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"FA25"

Summary of total payments and receipts	
Capital Drawn	46 831 118
Initial / Restructure Fees	3 613 800
Interest	56 436 102
Rates and taxes funded	14 907 458
Legal fees	164 883
Repayments	-94 340 373
Balance 31 Aug 2018	27 612 988

ITEM NO	DESCRIPTION	AMOUNT	
		FIRST RAND BANK as at 31 August 2018	PEG HR / DLAMINI as at 03 April 2017
1	Capital Drawn	R46 831 118	R42 436 751,68
2	Initial / Restructure Fees	R3 613 800	R0,00
3	Interest	R56 436 102	R42 436 751,68
4	Rates and Taxes Funded	R14 907 458	R9 907 458,00
5	Legal Fees	R164 883	R0,00
6	Repayments	-R94 340 373	-R116 643 992,34
7	Subtotal (per respective column dates)	R27 612 988	-R21 863 030,98

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BUNDLE 6

CERTIFICATE OF BALANCE DEPENDS ON DISPUTED ACCOUNTING

"FA46"
270

1 Merchant Place Cnr Fredman Dr & Rivonia Rd Sandton 2196
PO Box 786273 Sandton 2146 South Africa
Switchboard +27 11 282-8000
Facsimile +27 11 282-8008
www.rmb.co.za

Reg No 1929/001225/06
An Authorised Financial Services Provider

RAND MERCHANT BANK
A division of FirstRand Bank Limited

CERTIFICATE OF BALANCE

I, the undersigned,

JEAN DU PLESSIS

in my capacity as a Credit Executive of Rand Merchant Bank (Registration number 1929/001225/06), a division of FirstRand Bank Limited ("the Applicant"), do hereby certify that Ephraim Mbuso Dlamini (Identity Number 5610185771087) is indebted to the Applicant in the amount of R27 612 987.75 (Twenty Seven million, six hundred and twelve thousand, nine hundred and eighty seven Rand and seventy five cents) as at 31 August 2018 plus penalty interest thereon at the Applicant's prime rate plus 2% interest per annum, calculated on a daily basis and capitalised monthly in arrears from date mentioned to date of payment.

JEAN ALBERTUS DU PLESSIS

Directors LL Dippenaar (Chairman) SE Nkosana (Chief Executive Officer) VW Reekie JJH Bester JP Burger MS Ramela P Cooper (Alternate) L Crouse JJ Durand GG Gelink PM Goss NN Gwagwa PK Harris WR Jardine EG Matenge-Sebesho AT Nzimande D Premanandyen (India) KB Schoeman BJ van der Ross JH van Greuning Company Secretary: BW Unser

RMB Divisional Board: SE Nkosana (Chairman) AP Pullinger (Chief Executive Officer) MG Field (Chief Financial Officer) PR Gard (Chief Operating Officer) G Kruger (Chief Risk Officer) ME Oberholster (Chief Investment Officer) JP Burger DJA Craig LL Dippenaar DA Frankel PM Goss RP Goews PK Harris A Perold MW Plaff R Loubser CN Mapaure

2013/07/09

Go to Audit Certificate Report

1 Merchant Place, Cnr Fredman Dr & Rivonia Rd, Sandton, ZA.GT, SOUTH AFRICA, 2196
PO Box 786273, Sandton, ZA.GT, SOUTH AFRICA, 2146
www.rmb.co.za
Registration No: 1929/001225/06
An Authorised Financial Service Provider

Enquiries:
Cara Mullin
Tel: +27 11 2828210
Fax: +27 11 2828328
E-mail: cara.mullin@rmb.co.za

RAND MERCHANT BANK
A division of FirstRand Bank Limited

PEG HR Solutions (Pty) Ltd

2 Osborn Rd

Houghton Office Park

4Th Floor Houghton

Johannesburg
2198
Attention:

Account Number: 0000002527
Account Name: PEG HR Solutions 2527 Term

Currency: ZAR

Lender Name: Rand Merchant Bank a division of FirstRand Bank Ltd

Date produced: 05/09/2018 10:40:31

Statement of Account
for the period 23 May 2014 to 05 September 2018

Date	Days	Base Rate Type	Base Rate	Base Rate Units	Margin	Margin Rate Units	All-In Rate	All In Rate Units	Drawdown	Total Payment	Capital Payment	Interest Payment	Interest Accrued	Interest Compounded	Total Balance
2014/11/18	0	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	39 469 859,09	0,00	0,00	0,00	0,00	0,00	39 469 859,09
2014/11/28	10	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	100 026,36	100 026,36	39 569 885,45
2014/12/01	3	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	30 083,95	0,00	39 599 969,40
2015/01/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	39 910 836,92
2015/02/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	40 221 704,45
2015/03/01	28	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	280 783,57	0,00	40 502 488,02
2015/04/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	40 813 355,54
2015/05/01	30	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	300 839,54	0,00	41 114 195,08
2015/06/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	41 425 062,61
2015/06/30	29	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	20 000 000,00	20 000 000,00	0,00	290 811,55	0,00	21 715 874,16
2015/07/01	1	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	4 959,50	0,00	21 720 833,66
2015/07/24	23	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	114 068,30	0,00	21 834 901,96
2015/07/31	7	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	158 082,19	0,00	0,00	0,00	35 654,72	0,00	22 028 638,87
2015/08/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 134,68	2 305 805,91	22 033 773,55
2015/08/31	30	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	161 369,86	0,00	0,00	0,00	172 044,53	0,00	22 367 187,94
2015/09/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 776,82	177 621,35	22 372 964,76
2015/09/30	29	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	156 164,39	0,00	0,00	0,00	158 869,91	0,00	22 697 999,06
2015/10/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 863,75	174 733,66	22 703 862,81
2015/10/31	31	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	183 185,96	183 185,96	22 887 048,77
2015/11/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	171 780,82	0,00	0,00	0,00	5 956,90	0,00	23 064 786,49 *
2015/11/20	18	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	201 727,67	0,00	43 266 514,16
2015/12/01	11	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	126 522,18	334 206,75	43 393 036,34
2016/01/01	31	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	359 330,01	359 330,01	43 752 366,35
2016/01/29	28	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	327 243,72	0,00	44 079 610,07
2016/02/01	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	36 859,87	364 103,59	44 116 469,94
2016/02/04	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	37 166,62	0,00	44 153 636,56
2016/02/23	19	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	64 133,82	0,00	0,00	0,00	281 318,03	0,00	44 519 088,41
2016/03/01	7	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	103 841,15	422 325,60	44 622 929,56
2016/03/18	17	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	254 595,21	0,00	44 877 524,77
2016/03/31	13	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	2 739,42	0,00	0,00	0,00	198 663,72	0,00	45 078 927,91
2016/04/01	1	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	15 282,77	468 541,70	45 094 210,68
2016/04/26	27	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	16 069,85	0,00	0,00	0,00	416 967,01	0,00	45 527 247,54
2016/05/01	3	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	46 346,16	463 313,19	45 573 593,72
2016/05/31	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	483 829,25	483 829,25	46 057 422,97
2016/06/20	19	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	9 804,00	0,00	0,00	0,00	299 688,71	0,00	46 366 915,68
2016/07/01	11	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	173 540,93	473 229,64	46 540 456,61
2016/08/01	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	494 093,88	494 093,88	47 034 550,49

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2016/08/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIM	0.00	0.00	0.00	0.00	499 339.41	499 339.41	47 533 889.90
2016/10/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	488 361.88	488 361.88	48 022 251.78
2016/11/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	509 825.28	509 825.28	48 532 077.06
2016/12/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	498 617.23	498 617.23	49 030 694.29
2017/01/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	520 531.34	520 531.34	49 551 225.63
2017/02/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	526 057.53	526 057.53	50 077 283.16
2017/03/01	28	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	480 193.13	480 193.13	50 557 476.29
2017/03/02	1	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	6 920 483.00	0.00	0.00	0.00	17 314.21	0.00	57 495 273.50
2017/04/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	590 526.97	607 841.18	58 085 800.47
2017/04/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	37 178 678.83	26 203 580.00	10 975 098.83	39 784.80	39 784.80	20 046 908.44
2017/04/12	9	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	2 966 975.35	0.00	0.00	0.00	64 562.36	0.00	23 998 444.17
2017/05/01	19	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	155 734.16	220 296.54	24 154 178.33
2017/05/11	10	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	36 634.00	0.00	0.00	0.00	82 719.79	0.00	24 273 532.12
2017/06/01	21	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	173 975.02	256 694.81	24 447 507.14
2017/07/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	251 173.02	251 173.02	24 698 680.16
2017/07/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	251 173.02	0.00	251 173.02	18 916.91	18 916.91	24 464 424.05
2017/07/21	18	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	150 808.09	0.00	24 615 232.14
2017/08/01	11	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	241 125.38	0.00	241 125.38	93 317.29	241 125.38	24 464 424.05
2017/09/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	254 530.55	0.00	254 530.55	254 530.55	254 530.55	24 464 424.05
2017/10/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	246 319.89	246 319.89	24 710 743.94
2017/11/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	257 093.28	257 093.28	24 967 837.22
2017/12/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	251 388.50	251 388.50	25 219 225.72
2018/01/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	262 383.59	262 383.59	25 481 609.31
2018/02/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	265 113.46	265 113.46	25 746 722.77
2018/03/01	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	241 948.65	241 948.65	25 988 671.42
2018/03/29	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	244 222.31	0.00	26 232 893.73
2018/04/01	3	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	25 632.56	269 854.97	26 258 526.39
2018/05/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	258 988.21	258 988.21	26 517 514.60
2018/06/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	270 260.69	270 260.69	26 787 775.29
2018/07/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	264 206.20	264 206.20	27 051 981.49
2018/07/11	10	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	15 502.00	0.00	0.00	0.00	88 936.03	0.00	27 156 423.52
2018/08/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	186 876.88	275 814.91	27 343 300.40
2018/09/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	278 676.93	278 676.93	27 621 977.33
2018/09/05	4	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	36 324.79	0.00	27 658 302.12

← 07 May 2018 - R26 569 823.12

← 31 August 2018 - R27 612 987.75

Please note: Statement reflects interest accruals up to and excluding each line item date and thus excludes interest accrued for 05/09/2018

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"FA25"

Summary of total payments and receipts	
Capital Drawn	46 831 118
Initial / Restructure Fees	3 613 800
Interest	56 436 102
Rates and taxes funded	14 907 458
Legal fees	164 883
Repayments	-94 340 373
Balance 31 Aug 2018	27 612 988

ITEM NO	DESCRIPTION	AMOUNT	
		FIRST RAND BANK as at 31 August 2018	PEG HR / DLAMINI as at 03 April 2017
1	Capital Drawn	R46 831 118	R42 436 751,68
2	Initial / Restructure Fees	R3 613 800	R0,00
3	Interest	R56 436 102	R42 436 751,68
4	Rates and Taxes Funded	R14 907 458	R9 907 458,00
5	Legal Fees	R164 883	R0,00
6	Repayments	-R94 340 373	-R116 643 992,34
7	Subtotal (per respective column dates)	R27 612 988	-R21 863 030,98

17-32

BUNDLE 7

RECONSTRUCTION SUPPORTS APPLICANT'S ACCOUNTING ANALYSIS

RECONSTRUCTED PEG HR

RECONSTRUCTED PEG HR SOLUTIONS PTY LTD

MY HIGH LEVEL CERTIFICATE OF BALANCE - SUMMARY OF TOTAL PAYMENTS AND RECEIPTS - PEG HR SOLUTIONS PTY LTD				
ITEM NO	DESCRIPTION	**AMOUNT**		**REMARKS**
		FIRST RAND BANK	**PEG HR / DLAMINI**	
1	Capital Drawn	R46 831 118	R42 436 751,68	The correct "Capital Drawn" amount, see Annexure 8.
2	Initial / Restructure Fees	R3 613 800	R0,00	Included in the "Interest" amount below in terms of the Court Order on Supreme Court of Appeal in Case No. 662/2009 and 500/2010 which codified the Statutory In Duplum Rule; as well as Constitutional Court Order in Case No. CCT61/2014, Annexure 38.
3	Interest	R56 436 102	R42 436 751,68	The "Interest" amount must be equal to the "Capital Drawn" amount in terms of the Court Order on Supreme Court of Appeal in Case No. 662/2009 and 500/2010 which codified the Statutory In Duplum Rule; as well as Constitutional Court Order in Case No. CCT61/2014, Annexure 38.
4	Rates and Taxes Funded	R14 907 458	R9 907 458,00	R5m was paid directly from Friedshelf (RF) 1287 Pty Ltd to Ethekwini Municipality in terms of the agreement in Annexure 9; and the R9 907 458.00 was paid from the proceeds of the sale of erf 2579, 2580 and 2582 Umhlanga Rocks as can be seen in Annexure 2. An amount of R6 920 483.00 was paid to Ethekwini Municipality on the 02 March 2017 (30 days before the transfer); and an amount of R2 986 975.00 was paid to Umhlnaga Ridge Association for Levies on the 12 April 2017 (9 days after the transfer).
5	Legal Fees	R164 883	R0,00	Included in the "Interest" amount below in terms of the Court Order on Supreme Court of Appeal in Case No. 662/2009 and 500/2010 which codified the Statutory In Duplum Rule; as well as Constitutional Court Order in Case No. CCT61/2014.
6	Repayments	-R94 340 373	-R116 643 992,34	Total amount paid by both PEG HR Solutions Pty Ltd (R96 643 992.34) and Friedshelf 1287 (RF) Pty Ltd (R20 000 000.00) to First Rand Bank Limited from inception to the 03 April 2017 when erf 2579, 2580 and 2582 Umhlanga Rocks were transferred from PEG HR Soluions to JT Ross. Annexure 10.
7	Sub-total 1 as per 31 August 2018 (Per FRBL)	R27 612 988	-R21 863 030,98	As at 03 April 2017 which is the date when erf 2579, 2580 and 2582 were transferred from PEG HR Solutions Pty Ltd to JT Ross.
8	Shortfall on sale of erven 2579, 2580 and 2582 Umhlanga Rocks	R0	-R13 644 800,00	As at 03 April 2017. JT Ross paid R70,323,200.00 (being 20 992m2 @ R3350.00/m2) instead of R83,968,000.00 (being 20 992m2 @ R4000.00/m2 - offered by two other Parties, namely Hodari and Eris. See Annexures 12 and 13.
9	**Sub-total 2 as per 31 August 2018 (Per FRB)**	**R27 612 988**	**-R35 507 830,98**	**As at 03 April 2017 which is the date when erf 2579, 2580 and 2582 were transferred from PEG HR Solutions Pty Ltd to JT Ross.**
10	Erf 2583 Umhlanga Rocks (8170m2 @ a market value of R4000.00 per m2)	R0	-R32 680 000,00	As at 03 April 2017. JT Ross paid R70,323,200.00 (being 20992m2 @ R3350.00/m2) instead of R83,968,000.00 (being 20992m2 @ R4000.00/m2 - offered by two other Parties, namely Hodari and Eris. See Annexures 12 and 13
11	Rates & Taxes for erf 2583 Umhlanga Rocks as at 03 April 2017	R0	R4 456 698,76	As at 03 April 2017. Also see Annexure 23 (Ethekwini Municipality Account Number 83330151202).
12	Overpayment of Rates and Taxes to Ethekwini Metro for erf 2579, 2580 and 2583 Umhlanga Rocks, overaid by the FRBL appointed Bowmans as transfering Attorneys	R0	-R582 144,55	Overlooking my appointed transferring attorneys, Webber Wentzel. See Annexure 45
13	Overpayment of Levies for erf 2579, 2580 and 2583 Umhlanga Rocks to Umhlanga Ridge Association, overaid by FRBL appointed Bowmans as transfering Attorneys	R0	-R833 542,65	Overlooking my appointed transferring attorneys, Webber Wentzel. See Annexure 45.
14	**Sub-total 3 as per 31 August 2018 (Per FRB**	**R27 612 988**	**-R65 146 819,42**	**As at 03 April 2017 which is the date when erf 2579, 2580 and 2582 were transferred from PEG HR Solutions Pty Ltd to JT Ross; and erf 2583 Umhlanga Rocks remained. This amount excluses interest and any consequential damages.**

15	Interest from the 03 April 2017 to 13 August 2024		-R87 062 693,26	Interest from 03 April 2017 to 13 August 2024 at prime interest rate plus 2%
16				
17	**Subtotal 4 owing including interest from the 03 April 2017 to 13 August 2024**		**-R152 209 512,68**	**As at 13 August 2024**
18	Interest from the 13 August 2024 to 31 January 2025		-R9 895 822,28	Interest from 13 August 2024 to 31 January 2025 at prime interest rate plus 2%
19				
20	**Subtotal 4 owing including interest from the 03 April 2017 to 13 August 2024**		**-R162 105 334,96**	**Up to 31 January 2025 excluding consequential damages**
21	Consequesntial Damages			From inception to date
22				
23	**Subtotal 5 including censequential damages**			**Including all consequential damages from inception to date**
24	Interest on consequential damages			Total interest on consequential damages at prime interest rate plus 2%
25				
26	**Subtotal 6 owing including consequential damages and interest**			**To date, ...**

RECONSTRUCTED F1287

RECONSTRUCTED FRIEDSHELF 1287 (RF) PTY LTD

ANNEXURE A: SUMMARY OF CLAIM - MY HIGH LEVEL "CERTIFICATE OF BALANCE" - FRIEDSHELF 1287 (RF) PTY LTD (REGISTRATION NUMBER 2011/125738/07) CLAIM TO FIRST RAND BANK LIMITED EXCLUDING VAT AND DAMAGES						
ITEM NO	**DESCRIPTION**	**PAYMENT RECEIVED FROM ACTOM**	**CAPITAL REDEMPTION RESERVE ACCOUNT**		**AMOUNT**	**REMARKS**
1	Capital Drawn as at 20 March 2012				R59 513 286,19	
1.1	On 21/02/2012 to Trust Bank Account			R28 075 700,42		Drawn down by Friedshelf 1287 (RF) Pty Ltd
1.2	On 21/02/2012 to Trust Bank Account			R9 083 687,99		Drawn down by Friedshelf 1287 (RF) Pty Ltd
1.3	On 21/02/2012 to Friedshelf 1287 (RF) Pty Ltd held at FRBL			R1 140 000,00		To be used by Maitland for the duration of this transaction
1.4	On 09/03/2012 to Trust Bank Account			R7 577 902,74		Drawn down by Friedshelf 1287 (RF) Pty Ltd
1.5	On 20/03/2012 to Trust Bank Account			R13 635 995,04		Drawn down by Friedshelf 1287(RF) Pty Ltd
2	Initial Fees - Structuring Fees			R1 000 000,00	R1 000 000,00	Clause 15 of the Credit Agreement
3	Initial Legal Fees				R684 000,00	Clause 20.1 of Credit Agreement
4	Payment to Ethekwini Municipality on behalf of PEG HR Solutions Pty Ltd on or about the 14 February 2014 for rates and Taxes owed by PEG HR Solutions Pty Ltd (Reg. No. 2003/025572/07) to Ethekwini Municipality.				R5 000 000,00	Paid directly from Friedshelf 1287 (RF) Pty Ltd to PEG HR Solutions Loan Account as instructed in the agreement, Annexure 12.
5	Payment into PEG HR Solutions Pty Ltd Loan Account to reduce PEG HR Solutions Pty Ltd indebtedness to First Rand Bank Limited.				R20 000 000,00	Paid directly from Friedshelf 1287(RF) Pty Ltd to PEG HR Solutions Loan Account as instructed in the agreement, Annexure 12.
6	Fees payable to First Rand Bank for the R25m (R5m + R20m) agreement entered with First Rand Bank Limited on or about 14 February 2014.				R750 000,00	See the agreement, Annexure 12.
7	Legal Fees payable for the R25m (R5m + R20m) agreement entered with First Rand Bank Limited on or about 14 February 2014.				R250 000,00	See the agreement, Annexure 12.
	SUB-TOTAL A				**R87 197 286,19**	
8	Payment received from Actom on 30 September 2014	R34 402 283,31	R4 195 485,99		-R30 206 797,32	
9	Value of Friedshelf 1287 (RF) Pty Ltd as at 17 July 2016. This will only be changed once verifiable Audited Financial Statements of Actom Pty Ltd are issued for Financial Years 2012 to date; together with a schedule of all payments made by Actom to shareholders for the same period.			1	-R284 651 842,49	Only the shareholders cash contributions (A total of R247 424 010.29 for 87% shareholding; and First Rand Bank R37 356 607.20 for 13% redeemabe preference share). Only one asset, namely the investment of R284 780 617.49 cash contribution from the shareholders (EM Dlamini - 87% and First Rand Bank Limited - 13%).
	SUB-TOTAL B				**-R227 661 353,62**	
10	Interest payable to First Rand Bank Limited from Inception to the 17 July 2016				R27 749 112,62	At prime plus 2%.
	SUB-TOTAL C : Amount Owing as at 17 July 2016				**-R199 912 241,00**	**Owing by First Rand Bank Limited as at 17 July 2016.**
10	Interest from 18 July 2016 to date				R0,00	At prime plus 2%

	SUB-TOTAL D : Outstanding Amount excluding payments / receipts from Actom from the 01 October 2014 to date				**-R199 912 241,00**	
11	Plus all payments received by First Rand Bank from Actom from 01 October 2014 to date	R.....	R.....		- R.....	
12	Plus Interest on all payments received from Actom from 01 October 2016 to date				- R.....	
	SUB-TOTAL E: All payments made by Actom to Friedshelf 1287 (RF) Pty Ltd from Actom from 01 October 2014 to date plus interest thatof				**R0,00**	
	TOTAL : Total amount owing as at 17 July 2016 plus all amounts received from Actom from 01 October 2014 to date plus interest from 18 July 2016 to date. SUB-TOTAL D + SUB-TOTAL E				**-R199 912 241,00**	**Excluding any consequential damages claim**

"FA46"
290

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PO Box 786273 Sandton 2146 South Africa
Switchboard +27 11 282-8000
Facsimile +27 11 282-8008
www.rmb.co.za

Reg No 1929/001225/06
An Authorised Financial Services Provider

RAND MERCHANT BANK
A division of FirstRand Bank Limited

CERTIFICATE OF BALANCE

I, the undersigned,

JEAN DU PLESSIS

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

in my capacity as a Credit Executive of Rand Merchant Bank (Registration number 1929/001225/06), a division of FirstRand Bank Limited ("the Applicant"), do hereby certify that Ephraim Mbuso Dlamini (Identity Number 5610185771087) is indebted to the Applicant in the amount of R27 612 987.75 (Twenty Seven million, six hundred and twelve thousand, nine hundred and eighty seven Rand and seventy five cents) as at 31 August 2018 plus penalty interest thereon at the Applicant's prime rate plus 2% interest per annum, calculated on a daily basis and capitalised monthly in arrears from date mentioned to date of payment.

JEAN ALBERTUS DU PLESSIS

Directors: LL Dippenaar (Chairman) SE Nkosana (Chief Executive Officer) VW Bradley JJH Bester JP Burger MS Ramela P Cooper (Alternate) L Crouse JJ Durand GG Gelink PM Goss NN Gwagwa PK Harris WR Jardine EG Matenge-Sebesho AT Mikeswell D Premakanthan (India) KB Scheepers EJ van der Walt JH van Greuning Company Secretary: BW Unser

RMB Divisional Board: SE Nkosana (Chairman) AP Pullinger (Chief Executive Officer) MG Field (Chief Financial Officer) PR Gent (Chief Operating Officer) G Kruger (Chief Risk Officer) ME Oberholster (Chief Investment Officer) JP Burger DJA Craig LL Dippenaar DA Frankel PM Goss RP Goven PK Harris A Parekh MWP Reid R Leuvennink CH Stephens

2013/07/09

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Local Division, Johannesburg

CASE NO: **2024-092685**

In the matter between:

FIRSTRAND BANK LIMITED Plaintiff / Applicant / Appellant

and

Ephraim Dlamini ,EPHRAIM MBUSO DLAMINI Defendant / Respondent

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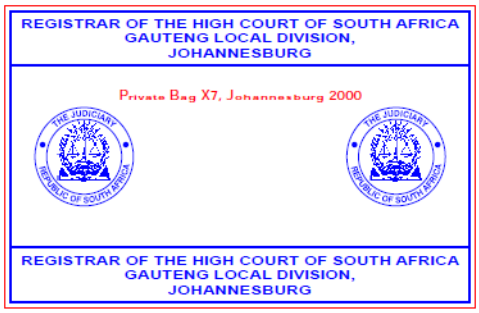
Annexure 11

NOTE: **This document was filed electronically by the Registrar on 22/5/2025 at 10:56:52 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of High Court , Gauteng Local Division,Johannesburg

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ANNEXURE B10

PAYMENTS MADE BY PEG HR SOLTIONS PTY LTD AND FRIEDSHELF 1287 (RF) PTY LTD TO FIRST RAND BANK LLIMITED

SCHEDULE OF PAYMENTS MADE TO RMB FROM INCEPTION TO DATE		
Date	**Description**	**Payment Made to RMB**
Monday, 09 May 2011	Payment by PEG HR, bank transfer	R 1 500 000,00
Monday, 20 June 2011	Payment by PEG HR, bank transfer	R 1 500 000,00
Saturday, 17 September 2011	Payment by PEG HR, bank transfer	R 1 156 283,96
Monday, 03 October 2011	Payment by PEG HR, bank transfer	R 372 618,54
Friday, 14 October 2011	Payment by PEG HR, bank transfer	R 373 742,32
Tuesday, 01 November 2011	Payment by PEG HR, bank transfer	R 385 197,39
Thursday, 01 December 2011	Payment by PEG HR, bank transfer	R 447 692,32
Tuesday, 03 January 2012	Payment by PEG HR, bank transfer	R 466 037,50
Wednesday, 01 February 2012	Payment by PEG HR, bank transfer	R 469 599,79
Thursday, 01 March 2012	Payment by PEG HR, bank transfer	R 456 55[illegible],00
Saturday, 03 March 2012	Payment by PEG HR, bank transfer	R 2 333 6[illegible]5
Wednesday, 28 March 2012	Payment by PEG HR, bank transfer	R 5 000 000,00
Monday, 02 April 2012	Payment by PEG HR, bank transfer	R 4 500 000,00
Wednesday, 02 May 2012	Payment by PEG HR, bank transfer	R 375 714,03
Tuesday, 31 July 2012	Payment by PEG HR, bank transfer	R 3 000 000,00
Wednesday, 01 August 2012	Payment by PEG HR, bank transfer	R 698,63
Wednesday, 01 August 2012	Interest Capitalisation	R 6 762,18
Friday, 31 August 2012	Payment by PEG HR, bank transfer	R 2 000 000,00
Saturday, 01 September 2012	Interest Capitalisation	R 10 232,34
Sunday, 02 September 2012	Payment by PEG HR, bank transfer	R 335,87
Monday, 01 October 2012	Interest Capitalisation	R 9 990,66
Thursday, 01 November 2012	Interest Capitalisation	R 10 412,78
Wednesday, 07 November 2012	Payment by PEG HR, bank transfer	R 500 000,00
Wednesday, 07 November 2012	Payment by PEG HR, bank transfer	R 400 000,00
Wednesday, 07 November 2012	Payment by PEG HR, bank transfer	R 9 158,02
Wednesday, 11 December 2013	Payment by PEG HR, bank transfer	R 285 000,00
Wednesday, 01 January 2014	Interest Capitalisation	R 1 721,70
Saturday, 01 February 2014	Interest Capitalisation	R 2 564,81
Monday, 03 July 2017	Payment by PEG HR, bank transfer	R 251 173,02
Tuesday, 01 August 2017	Payment by PEG HR, bank transfer	R 241 125,38
Friday, 01 September 2017	Payment by PEG HR, bank transfer	R 254 530,55
Sub-total		**R 26 320 792,34**
2017/04/03	Proceeds from sale of erven 2579, 2580, 2582	R 70 323 200,00
	GRAND TOTAL PAID BY PEG HR SOLUTIONS TO RMB TO DATE	**R 96 643 992,34**
Tuesday, 30 June 2015	F 1287, FA24 page 230	R 20 000 000,00
	GRAND TOTAL PAID BY PEG HR SOLUTIONS & F 1287 TO RMB TO DATE	**R 116 643 992,34**

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Local Division, Johannesburg

CASE NO: **2024-092685**

In the matter between:

FIRSTRAND BANK LIMITED Plaintiff / Applicant / Appellant

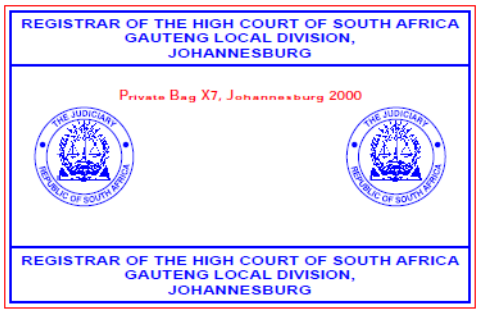
and

Ephraim Dlamini ,EPHRAIM MBUSO DLAMINI Defendant / Respondent

---

Annexure 05

NOTE: **This document was filed electronically by the Registrar on 22/5/2025 at 10:52:42 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of High Court , Gauteng Local Division,Johannesburg

ANNEXURE B4

FRIEDSHELF 1287 (RF) PTY LTD R25M TO PEG HR SOLUTIONS PTY LTD

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

ANNEXURE 9

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www.rmb.co.za

Reg No. 1929/001225/06
An Authorised Financial Services Provider

RAND MERCHANT BANK
A division of FirstRand Bank Limited

Mr. Mbuso Dlamini, Friedshelf 1287 (RF) Proprietary Limited and the Mbuso Dlamini Family Trust
(collectively the "Dlamini Entities")
3rd Floor
China Construction Bank Building
95 Grayston Drive
Sandton

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

AMENDMENT TO CURRENT FUNDING ARRANGEMENT

Dear Mr. Mbuso Dlamini,

Introduction

We refer to Loan Facility Agreement, Class "A" Preference Share Subscription Agreement and Class "B" Preference Share Subscription Agreement between FirstRand Bank Limited and Friedshelf 1287 (RF) Proprietary Limited (collectively the "Facility Agreements") signed on or about 13 December 2011. Capitalised terms used but not defined herein shall have the same meanings given to those terms in the Facility Agreements.

Rand Merchant Bank, a division of FirstRand Bank Limited ("RMB"), has considered the Dlamini-Entities' request for additional liquidity against the investment in ordinary shares and Associated Instruments (as defined in the Actom Investment Holdings (Pty) Ltd Shareholders Agreement) (collectively the "Actom Investment") held by the Dlamini Entities in Actom Investment Holdings (Pty) Ltd ("Actom").

RMB understands that the Dlamini Entities are looking for an additional R25 million of funding against the Actom Investment.

RMB would be willing to advance an additional R26 million of funding against the Actom Investment under the existing Facility Agreements, subject to the amendments of the Facility Agreements as set-out in Annexure A to this letter. This additional advance and amendment to the Facility Agreements will result in an additional fee of R750,000 and a change in Dividend Rights of the Class "B" Preference Shares as contained in Annexure A. Up to R250,000 of the facility will be available to fund pre-agreed directly associated legal fees and cost incurred but the Dlamini Entities pursuant to the amendment of the funding arrangement.

RMB will advance the R26 million on the condition that it will be utilized to repay the PEG HR facility owed to RMB (R20m), Rates & Taxes to Ethekwini Municipality (R5m) as well as a facility fee to RMB (R750,000). These payments will be paid directly from the Friedshelf 1287 (RF) Proprietary Limited bank accounts held by RMB to RMB (R20.75m), Ethekwini Municipality (R5m) and lawyers and service providers up to R250,000 (most efficient structure to be agreed).

Directors: G T Ferreira (Chairman) S E Nxasana (Chief Executive Officer) V W Bartlett J P Burger L L Dippenaar D M Falck P M Goss P K Harris W R Jardine E G Matenge-Sebesho Z B Ntsaluba R K Store B J van der Ross R A Williams Company Secretary: B W Unser

RMB Divisional Board: P K Harris (Chairman) M W Pfaff (Chief Executive Officer) L P Collet (Chief Strategic Officer) M G Field (Chief Financial Officer) P R Gent (Chief Operating Officer) D N Prout-Jones (Chief Investment Officer) J P Burger D J A Craig S Das L L Dippenaar G T Ferreira D A Frankel P M Goss R P Gouws S E Nxasana K Pillay S E N Sebotsa R K Store

This letter shows the indicative terms on which RMB would consider providing the required funding.

Implementation

The final implementation of this transaction is subject to the suspensive conditions listed in Annexure A.

Acceptance

Following acceptance of this offer, the parties will dedicate significant time and resources to concluding the transaction. By signing the term sheet, you agree to pursue the transaction in good faith and you grant exclusivity to RMB to conclude the transaction or a similar transaction from the date of signature of this letter.

By signing this letter you also authorise RMB to engage with Actom and the Actom shareholders to obtain the necessary approvals (to the extent required) for the amendment of the funding arrangements as set-out in this letter. However, obtaining the relevant Actom board and shareholder approvals remain the responsibility of the Dlamini Entities

We trust that the above terms and conditions will be acceptable to all parties to this transaction.

The provisions and undertakings of this letter will only be valid if it is signed by both parties on or before 14 February 2014.

Should you wish to discuss the contents of this term sheet further, please do not hesitate to contact Neels Els on (011) 282 8176 or Shamal Mahabir on (011) 282 4542.

Yours sincerely,

NEELS ELS
For and on behalf of
FirstRand Bank Limited
(acting through its Rand Merchant Bank division)

For and on behalf of
FirstRand Bank Limited
(acting through its Rand Merchant Bank division)

Mr. Mbuso Dlamini, acting on behalf of the Mbuso Dlamini Family Trust
Who hereby warrants that he is duly authorised

EPHRAIM MBUSO DLAMINI acting on behalf of the Mbuso Dlamini Family Trust
Who hereby warrants that he/she is duly authorised

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

Mr. Mbuso Dlamini

Mr. Mbuso Dlamini, acting on behalf of Friedshelf 1287 (RF) Proprietary Limited
Who hereby warrants that he is duly authorised

EPHRAIM MBUSO DLAMINI acting on behalf of Friedshelf 1287 (RF) Proprietary Limited
Who hereby warrants that he/she is duly authorised

Annexure A: Amendments to the Finance Documents and key salient terms

Additional Advance	Up to a maximum of R26 million additional advance under the Loan Facility Agreement
Interest rate	2% above FNB Prime overdraft rate ("Prime") (NACM) (as per the existing Loan Facility Agreement)
Non-refundable Structuring Fee on Additional Advance	R750 000 plus VAT
Relevant Percentage	This will be amended from "13.2%*" to "19.25%" * Please note that this percentage was originally 12% but was subsequently adjusted to an effective rate of 13.2% in terms of an adjustment notice sent to Friedshelf 1287 (RF) Proprietary Limited on 8 March 2012 with the abolishment of STC and the introduction of Dividend Tax.
Dividend Rights of the Class "B" Preference Shares	The definition of "B" per clause 10.2.1.1 will be amended from "6.6%*" to "13.33%" * Please note that this percentage was originally 6% but was subsequently adjusted to an effective rate of 6.6% in terms of an adjustment notice sent to Friedshelf 1287 (RF) Proprietary Limited on 8 March 2012 with the abolishment of STC and the introduction of Dividend Tax.
Legal costs and expenses	All costs and expenses incurred pursuant to the amendment of the funding arrangement is for the account of the Dlamini Entities. Up to a maximum of R250,000 of the Additional Advance will be available to fund pre-agreed directly associated fees and expenses.
Other terms and conditions	As per the current Facilities Agreements.
Conditions Precedent	These include, inter alia: • Approval by the RMB Investment Committee • Actom Shareholder and Actom board approval to the extent required • Amendment of the legal agreements to effect the amendments

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG LOCAL DIVISION, JOHANNESBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG LOCAL DIVISION, JOHANNESBURG

above and any other consequential amendments to the satisfaction of the RMB

- Tax and legal opinions to the satisfaction of RMB on the proposed transaction set-out in this term sheet
- The Distribution will be utilised to repay the PEG HR facility advanced by RMB (R20m), Rates & Taxes to Ethekwini Municipality (R5m), the Non-refundable Structuring Fee (R750,000) and a maximum of R250 000 to fund costs. This will be done by making a direct payment form the Friedshelf 1287 (RF) Proprietary Limited bank accounts held with RMB to RMB (R20.75m) and the Ethekwini Municipality (R5m) and lawyers and service providers (up to R250,000).

Go to Audit Certificate Report

1 Merchant Place, Cnr Fredman Dr & Rivonia Rd, Sandton, ZA.GT, SOUTH AFRICA, 2196
PO Box 786273, Sandton, ZA.GT, SOUTH AFRICA, 2146
www.rmb.co.za
Registration No: 1929/001225/06
An Authorised Financial Service Provider

Enquiries:
Cara Mullin
Tel: +27 11 2828210
Fax: +27 11 2828328
E-mail: cara.mullin@rmb.co.za

RAND MERCHANT BANK
A division of FirstRand Bank Limited

PEG HR Solutions (Pty) Ltd

2 Osborn Rd

Houghton Office Park

4Th Floor Houghton

Johannesburg
2195
Attention:

Account Number: 0000002527
Account Name: PEG HR Solutions 2527 Term

Currency: ZAR

Lender Name: Rand Merchant Bank a division of FirstRand Bank Ltd

Date produced: 05/09/2018 10:40:31

Statement of Account
for the period 23 May 2014 to 05 September 2018

Date	Days	Base Rate Type	Base Rate	Base Rate Units	Margin	Margin Rate Units	All-In Rate	All In Rate Units	Drawdown	Total Payment	Capital Payment	Interest Payment	Interest Accrued	Interest Compounded	Total Balance
2014/11/18	0	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	39 469 859,09	0,00	0,00	0,00	0,00	0,00	39 469 859,09
2014/11/28	10	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	100 026,36	100 026,36	39 569 885,45
2014/12/01	3	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	30 083,95	0,00	39 599 969,40
2015/01/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	39 910 836,92
2015/02/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	40 221 704,45
2015/03/01	28	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	280 783,57	0,00	40 502 488,02
2015/04/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	40 813 355,54
2015/05/01	30	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	300 839,54	0,00	41 114 195,08
2015/06/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	41 425 062,61
2015/06/30	29	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	20 000 000,00	20 000 000,00	0,00	290 811,55	0,00	21 715 874,16
2015/07/01	1	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	4 959,50	0,00	21 720 833,66
2015/07/24	23	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	114 068,30	0,00	21 834 901,96
2015/07/31	7	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	158 082,19	0,00	0,00	0,00	35 654,72	0,00	22 028 638,87
2015/08/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 134,68	2 305 805,91	22 033 773,55
2015/08/31	30	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	161 369,86	0,00	0,00	0,00	172 044,53	0,00	22 367 187,94
2015/09/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 776,82	177 621,35	22 372 964,76
2015/09/30	29	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	156 164,39	0,00	0,00	0,00	158 869,91	0,00	22 697 999,06
2015/10/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 863,75	174 733,66	22 703 862,81
2015/10/31	31	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	183 185,96	183 185,96	22 887 048,77
2015/11/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	171 780,82	0,00	0,00	0,00	5 956,90	0,00	23 064 786,49
2015/11/20	18	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	201 727,67	0,00	23 266 514,16
2015/12/01	11	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	126 522,16	334 206,75	23 393 036,34
2016/01/01	31	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	359 330,01	359 330,01	23 752 366,35
2016/01/29	28	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	327 243,72	0,00	24 079 610,07
2016/02/01	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	36 859,87	364 103,59	24 116 469,94
2016/02/04	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	37 166,62	0,00	24 153 636,56
2016/02/23	19	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	64 133,82	0,00	0,00	0,00	281 318,03	0,00	24 519 088,41
2016/03/01	7	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	103 841,15	422 328,60	24 622 929,56
2016/03/18	17	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	251 595,21	0,00	24 877 524,77
2016/03/31	13	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	2 739,42	0,00	0,00	0,00	191 668,72	0,00	25 070 932,91
2016/04/01	1	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	7 267,77	468 534,70	25 078 200,68
2016/04/26	27	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	16 069,85	0,00	0,00	0,00	414 969,01	0,00	25 527 247,54
2016/05/01	3	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	46 345,16	46 345,19	25 573 593,72
2016/05/31	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	483 829,25	483 829,25	26 057 422,97
2016/06/20	19	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	9 804,00	0,00	0,00	0,00	299 936,71	0,00	26 366 915,68
2016/07/01	11	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	173 540,93	473 539,64	26 540 456,61
2016/08/01	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	494 093,88	494 093,88	47 034 550,49

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2016/08/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIM	0.00	0.00	0.00	0.00	499 339.41	499 339.41	47 533 889.90
2016/10/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	488 361.88	488 361.88	48 022 251.78
2016/11/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	509 825.28	509 825.28	48 532 077.06
2016/12/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	498 617.23	498 617.23	49 030 694.29
2017/01/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	520 531.34	520 531.34	49 551 225.63
2017/02/01	31	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	526 057.53	526 057.53	50 077 283.16
2017/03/01	28	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	480 193.13	480 193.13	50 557 476.29
2017/03/02	1	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	6 920 483.00	0.00	0.00	0.00	17 314.21	0.00	57 495 273.50
2017/04/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	590 526.97	607 841.18	58 085 800.47
2017/04/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	37 178 678.83	26 203 560.00	10 975 098.83	39 784.80	39 784.80	20 046 908.44
2017/04/12	9	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	2 966 975.35	0.00	0.00	0.00	64 562.36	0.00	23 998 444.17
2017/05/01	19	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	155 734.16	220 296.54	24 154 178.33
2017/05/11	10	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	36 634.00	0.00	0.00	0.00	82 719.79	0.00	24 273 532.12
2017/06/01	21	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	173 975.02	256 694.81	24 447 507.14
2017/07/01	30	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	251 173.02	251 173.02	24 698 680.16
2017/07/03	2	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	251 173.02	0.00	251 173.02	18 916.91	18 916.91	24 464 424.05
2017/07/21	18	FNBPR	10.500	SIMP	2.000	SIMP	12.500	SIMP	0.00	0.00	0.00	0.00	150 808.09	0.00	24 615 232.14
2017/08/01	11	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	241 125.38	0.00	241 125.38	93 317.29	241 125.38	24 464 424.05
2017/09/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	254 530.55	0.00	254 530.55	254 530.55	254 530.55	24 464 424.05
2017/10/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	246 319.89	246 319.89	24 710 743.94
2017/11/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	257 093.28	257 093.28	24 967 837.22
2017/12/01	30	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	251 388.50	251 388.50	25 219 225.72
2018/01/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	262 383.59	262 383.59	25 481 609.31
2018/02/01	31	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	265 113.46	265 113.46	25 746 722.77
2018/03/01	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	241 948.65	241 948.65	25 988 671.42
2018/03/29	28	FNBPR	10.250	SIMP	2.000	SIMP	12.250	SIMP	0.00	0.00	0.00	0.00	244 222.31	0.00	26 232 893.73
2018/04/01	3	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	25 632.56	269 854.97	26 258 526.39
2018/05/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	258 988.21	258 988.21	26 517 514.60
2018/06/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	270 260.69	270 260.69	26 787 775.29
2018/07/01	30	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	264 208.20	264 208.20	27 051 983.49
2018/07/11	10	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	15 502.00	0.00	0.00	0.00	88 936.03	0.00	27 156 423.52
2018/08/01	21	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	186 876.88	275 814.91	27 343 300.40
2018/09/01	31	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	278 676.93	278 676.93	27 621 977.33
2018/09/05	4	FNBPR	10.000	SIMP	2.000	SIMP	12.000	SIMP	0.00	0.00	0.00	0.00	36 324.79	0.00	27 658 302.12

Please note: Statement reflects interest accruals up to and excluding each line item date and thus excludes interest accrued for 05/09/2018

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION
JOHANNESBURG
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GAUTENG DIVISION
JOHANNESBURG

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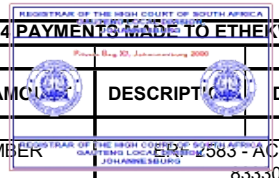

SUMMARY OF PAYMENTS MADE TO ETHEKWINI METRO EXCLUDING QAN 88 AND QAN94 PAYMENTS MADE TO ETHEKWINI														
ITEM NO	DESCRIPTION	DATE	AMOUNT	DESCRIPTION	DATE	AMOUNT	DESCRIPTION	DATE	AMOUNT	DESCRIPTION	DATE	AMOUNT	TOTALS	
	ERF 2579 - ACCOUNT NUMBER 83330150191 :			ERF 2580 - ACCOUNT NUMBER 83330152919 :			ERF 2582 - ACCOUNT NUMBER 83330152313 :			ERF 2583 - ACCOUNT NUMBER 83330151202 :				
1	**AT INCEPTION**			**AT INCEPTION**			**AT INCEPTION**			**AT INCEPTION**				
	Balance b/f 1	04-May-08	R128 282,93	Balance b/f 1	04-May-08	R132 754,50	Balance b/f 1	04-May-08	R167 090,46	Balance b/f 1	04-May-08	R170 641,28	R598 769,17	Check
	Balance b/f 2	03-Jun-08	R128 282,92	Balance b/f 2	03-Jun-08	R132 754,48	Balance b/f 2	03-Jun-08	R167 090,42	Balance b/f 2	03-Jun-08	R169 641,26	R597 769,08	Check
	Part of RMB loan	03-Dec-08	R375 466,94	Part of RMB loan	03-Dec-08	R386 909,60	Part of RMB loan	03-Dec-08	R476 827,51	Part of RMB loan	03-Dec-08	R488 487,88	R1 727 691,93	
	SUB-TOTAL 1		**R632 032,79**			**R652 418,58**			**R811 008,39**			**R828 770,42**	**R2 924 230,18**	
2	**BY FRIEDSHELF**			**BY FRIEDSHELF**			**BY FRIEDSHELF**			**BY FRIEDSHELF**				
	Payment	24/06/2014	R1 050 357,79	Payment	24/06/2014	R1 451 725,02	Payment	24/06/2014	R2 086 875,34	Payment	24/06/2014	R411 041,85	R5 000 000,00	
	SUB-TOTAL 2		**R1 050 357,79**			**R1 451 725,02**			**R2 086 875,34**			**R411 041,85**	**R5 000 000,00**	
3	**BY MBUSO**			**BY MBUSO**			**BY MBUSO**			**BY MBUSO**				
	Payment	08-Jun-08	R155 767,47	Payment	08-Jun-08	R158 677,56	Payment	08-Jun-08	R184 167,35	Payment	08-Jun-08	R190 420,36	R689 032,74	
	Payment	31-Oct-15	R130 000,00				Payment	28-Oct-15	R130 000,00		09-Mar-09	241140,48	R501 140,48	
											13-Jul-11	9999,91	R9 999,91	
											23-Oct-15	170000	R170 000,00	
											07-Dec-15	170000	R170 000,00	
	SUB-TOTAL 3		**R285 767,47**			**R158 677,56**			**R314 167,35**			**R781 560,75**	**R1 540 173,13**	
4	**BY CONVEYANCER ON BEHALF OF PEG H**			**BY CONVEYANCER ON BEHALF OF PEG H**			**BY CONVEYANCER ON BEHALF OF PEG H**			**BY CONVEYANCER ON BEHALF OF PEG HR**				
	Payment	07-Mar-17	R1 513 024,00	Payment	07-Mar-17	R2 382 688,00	Payment	07-Mar-17	R3 024 771,00	Payment	07-Mar-17	R0,00	R6 920 483,00	Paid ex sale of 3 erven
	SUB-TOTAL 4		**R1 513 024,00**			**R2 382 688,00**			**R3 024 771,00**			**R0,00**	**R6 920 483,00**	
	TOTALS		**R3 481 182,05**			**R4 645 509,16**			**R6 236 822,08**			**R2 021 373,02**	**R16 384 886,31**	

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ETHEKWINI MUNICIPALITY

THE METRO BILL
REVENUE DEPARTMENT

TAX INVOICE

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 0191	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office Poskantoor 83330150191

EASYPAY 9 1800 833 301 501 916

payA 11350 0833 3015 0191

payCity 04001 833 3015 0191

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	1050357.79
14-06-24DP	PAYMENT - THANK YOU	1050357.79CR
	PARK AVENUE UMHLANGA RIDGE	
2883 4029	MONTHLY RATES - JULY INSTALMENT	38983.33
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE BY 2014-07-23	38983.33

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

MAKE THINGS HAPPEN

NEDBANK

Payment Methods:

1. Pay at Nedbank Branches by completing a Nedbank Deposit Slip to pay 'Ethekwini Municipality' (bank account number is not required) OR
2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

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ETHEKWINI MUNICIPALITY

THE METRO BILL
REVENUE DEPARTMENT

TAX INVOICE

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 2919	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office Poskantoor 83330152919

EASYPAY 9 1800 833 301 529 198

pay@ 11350 0833 3015 2919

payCity 04001 833 3015 2919

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	1451725.02
14-06-24DP	PAYMENT - THANK YOU	1451725.02CR
	PARK AVENUE UMHLANGA RIDGE	
2883 4433	MONTHLY RATES - JULY INSTALMENT	60424.17
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE BY 2014-07-23	60424.17

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GAUTENG LOCAL DIVISION,
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MAKE THINGS HAPPEN

NEDBANK

Payment Methods:

1. Pay at Nedbank Branches by completing a Nedbank Deposit Slip to pay 'Ethekwini Municipality' (bank account number is not required) OR
2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

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ETHEKWINI MUNICIPALITY

THE METRO BILL
REVENUE DEPARTMENT

TAX INVOICE

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 2313	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office
Poskantoor 83330152313

EasyPay 9 1800 833 301 523 134

pay@ 11350 0833 3015 2313

payCity 04001 833 3015 2313

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	2086875.34
14-06-24DP	PAYMENT - THANK YOU	2086875.34CR
	PARK LANE UMHLANGA RIDGE	
2883 4332	MONTHLY RATES - JULY INSTALMENT	76797.17
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE BY 2014-07-23	76797.17

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

MAKE THINGS HAPPEN

NEDBANK

Payment Methods:

1. Pay at Nedbank Branches by completing a Nedbank Deposit Slip to pay 'Ethekwini Municipality' (bank account number is not required) OR
2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

22/5/2025 10:52:42 PM

THE METRO BILL
REVENUE DEPARTMENT

TAX INVOICE

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 1202	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office Poskantoor 83330151202

EasyPay 9 1800 833 301 512 020

pay@ 11350 0833 3015 1202

payCity 04001 833 3015 1202

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	1990147.34
14-06-24DP	PAYMENT - THANK YOU	411041.85CR
		1579105.49
	URGENT : ACCOUNT IN ARREARS!	
	Should payment not be made at a MUNICIPAL Office with online receipting facilities by 2014-07-12, we advise that we intend to cut off or restrict the supply of Electricity/Water on 2014-07-12 and we may on or after that date so cut off or restrict such supply.	
	SHOULD YOU WISH TO DISCUSS THE MATTER, PLEASE VISIT ANY OF THE METRO REVENUE OFFICES BY NOT LATER THAN 2014-07-12. OR POST WRITTEN SUBMISSIONS TO P.O. BOX 828 DURBAN 4000 TO REACH OUR OFFICES BY NOT LATER THAN 2014-07-12.	
	INTEREST CHARGES ON RATES	8648.33
	TWILIGHT DRIVE UMHLANGA RIDGE	
2883 4231	MONTHLY RATES - JULY INSTALMENT	76407.33
	INTEREST CHARGES	3132.96
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE	1667294.11

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG LOCAL DIVISION, JOHANNESBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG LOCAL DIVISION, JOHANNESBURG

MAKE THINGS HAPPEN

NEDBANK

Payment Methods:

1. Pay at Nedbank Branches by completing a Nedbank Deposit Slip to pay 'Ethekwini Municipality' (bank account number is not required) OR
2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

ANNEXURE B7

ERIS OFFER

Mbuso

From: Mbuso Dlamini <mbuso@icon.co.za>
Sent: Wednesday, 14 September 2016 16:52
To: 'du Plessis, Jean'
Cc: 'pes@palacegroup.co.za'
Subject: FW: Parkside - Erf 2580
Attachments: New Town Centre Erf 2579 - Vacant Land Purchase - Final 14.09.2016.docx

Dear Jean

Our telecom of a few minutes ago refer.

This is the latest sale agreement from Lance of Eris.

He would like to sign tomorrow; failing which he has to go to Durban on Friday, 16th September 2016 to sign with another land owner. He has increased the purchase price from R3,750.00 per square metre bulk to R4,000.00 per square metre bulk.

Please advise how you suggest I proceed with this, given the fact that JT Ross wants both erf 2579 and 2580; and that the Hodari's CPs expire on the 18th September 2016.

If only Lance could wait until Monday 19th September 2016; then one can make a firm decision.

You can also see the email trail below.

Kind regards
Mbuso Dlamini

From: Lance Meyer [mailto:lmeyer@eris.co.za]
Sent: Wednesday, September 14, 2016 2:22 PM
To: mbuso@icon.co.za
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Hi Mbuso,

Per our discussion, attached is the amended and final version of the sale agreement.

Note the changes to 3.1.2 and 3.1.3.

I look forward to seeing you tomorrow.

Regards,

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: Wednesday, 14 September 2016 13:39
To: Lance Meyer <lmeyer@eris.co.za>

Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Hi Lance

Thank you for your prompt action.

Kindly see the attached with minor changes on clauses 3.1.2 and 3.1.3.

Kindly revert ASAP.

Kind Regards
Mbuso

From: Lance Meyer [mailto:lmeyer@eris.co.za]
Sent: Wednesday, September 14, 2016 10:53 AM
To: mbuso@icon.co.za
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

HI Mbuso,

Attached is the updated agreements taking into account the amendment of the sale price from R3750 to R4000 / m2 bulk.

See you tomorrow to close out.

Regards,

From: Lance Meyer
Sent: Tuesday, 13 September 2016 10:59
To: mbuso@icon.co.za
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Thanks Mbuso.

Look forward to hearing from you.

Regards,

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: Tuesday, 13 September 2016 10:15
To: Lance Meyer <lmeyer@eris.co.za>
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Good Morning Lance

Sorry about the delay.

Our legal guys have delayed this process. I will talk to them today and revert ASAP.

Kind Regards
Mbuso

From: Lance Meyer [mailto:lmeyer@eris.co.za]
Sent: Tuesday, September 13, 2016 7:49 AM
To: Mbuso Dlamini <mbuso@icon.co.za>
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Good morning Mbuso,

Please advise if you have reviewed the changes to the sale agreement?

As discussed, we are looking to purchase a property in Durban for a group client. Erf 2580 site and one other have been identified by our client as suitable sites. We are being put under pressure by our client to secure one of the two sites so that they can confirm to their board the commencement of the development process.

The sellers of the other property has given us to Friday 16 September 2016 to confirm our commitment, failing which they will be selling to another party.

I have confirmed with our client that their first choice is Erf 2580, but due to extreme time constraints, they do not want to risk not securing either site timeously and risk not having the building completed by end 2018.

We have until Thursday 15 September 2016 to close out and sign the Sale Agreement on Erf 2580, failing which I am instructed to stop all negotiations on Erf 2580 and fly to Durban on Friday and sign the sale agreement on the other approved property.

I will be in Durban on Friday, thus please can we look to close out on the Sale Agreement in the next 2 days.

Regards,

From: Lance Meyer
Sent: Friday, 09 September 2016 12:37
To: Mbuso Dlamini <mbuso@icon.co.za>
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Hi Mbuso,

Per our discussion earlier, attached is the final version of the agreements for your consideration.

I have attached a marked up version and a clean version for signature.

Note: We have changed the purchaser from Eris Investment Holdings (Pty) Ltd to Papatekwe Developments (Pty) Ltd on the request of our CFO for tax purposes. Papatekwe is 100% owned by Eris Investment Holdings.

Per your deadlines, we are ready to sign the agreement. Should you be comfortable with the proposed changes, kindly sign the clean version and scan back to me so that I can countersign accordingly.

I look forward to hearing from you.

Regards,

From: Lance Meyer
Sent: Thursday, 08 September 2016 08:02
To: Mbuso Dlamini <mbuso@icon.co.za>
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Good morning Mbuso,

Please find attached a clean and marked up version of the amended sale agreement.

I received the agreement late last night and am out of office for the whole of today thus I haven't had the chance to peruse our legal counsels comments and changes in detail. I will do so over the next 24 hours but I wanted to send the document in its current form so that you can start reviewing from your side.

I have looked at the document on my phone briefly, and have the following comments at this stage:

- Clause 3.1.2.1 - we will not need this suspensive condition. We will not be looking to raised finance for the purchase of the property;
- Clause 3.1.3 – I am not sure what the restrictive condition in the title deed our counsel is referring to but will discuss with him later in the day to determine the risks. If it the usual THS restriction and conditions in terms of development and timing, I think I will be able to take a commercial view on these due to our relationship with THD.

I will touch base with when I am able to get some signal (I am travelling today).

Regards,

From: Lance Meyer
Sent: Sunday, 04 September 2016 11:36
To: Mbuso Dlamini <mbuso@icon.co.za>
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Hi Mbuso,

I am comfortable to make amendments to your land sale agreement. It seems comprehensive and my sense is that it would be quicker to settle changes to the existing document than start the whole process afresh.

I am meeting our legal counsel tomorrow to review the agreement and will revert with comments / amendments ASAP thereafter.

I will do my best to have the agreement concluded by all parties by 8 September 2016, however I do have a number of parties internally to obtain comment from on the agreement and any changes.

I understand the need for urgency however reasonable timeframes must be agreed in which to close out a contract for the purchase of a multi-million rand property. Unfortunately, committing R24m of our shareholders money does not happen within EPG without proper consultation.

I will in touch early next week with comments on the Sale Agreement.

Regards,

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: Saturday, 03 September 2016 09:34
To: Lance Meyer <lmeyer@eris.co.za>
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Good Morning Lance

Persuant to my email below, please send us your own land sale agreement (instead of commenting on our proposed sale agreement) by close of business on the 6th September 2016. This will help expedite the process so that we may close the sale agreement by the 8th September 2016. We need to have the land sale agreement signed by both the seller and the purchaser by close of business on the 8th September 2016.

Urgent.

Kind Regards
Mbuso

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: Friday, September 2, 2016 11:47 AM
To: 'Lance Meyer' <lmeyer@eris.co.za>
Cc: 'pes@palacegroup.co.za' <pes@palacegroup.co.za>
Subject: RE: Parkside - Erf 2580

Good Morning Lance

Thank you for your prompt response.

See my comments in red below.

Kind Regards
Mbuso

From: Lance Meyer [mailto:lmeyer@eris.co.za]
Sent: Friday, September 2, 2016 9:36 AM
To: Mbuso Dlamini <mbuso@icon.co.za>
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Good morning Mbuso,

Thank you for the mail.

Unfortunately our wheels do not turn within the space of 24 hours. Understood, but please revert shortly.

I will send the legal agreement to our legal counsel to review and will revert with any comments or queries. Will wait for the comments.

Given the history of the property, please can you forward me the following:

1. Title deeds; Attached
2. Zoning certificate; We are using the precinct plan for this, which I think you have. It is a large document, I can post on dropbox if you do not have it.
3. Status of the rates and taxes on the property; An amount of about R450k or so. Will be paid on transfer.
4. Status of any levies due to the Umhlanga New Town Centre Management association; An amount of about R370k or so. Will be paid on transfer.
5. Whether you have any correspondence from THD confirming that they will entitle you to sell the property without commencing construction. If not I am happy to phone Mike Deighton to confirm that he will have no objection; Attached
6. Confirmation from yourself that EPG can purchase the property without any obligations to 3rd party agents, consultants, professionals and the like. Confirmed.

I look forward to receiving the above and I will get cracking on the sale agreement. Finalise ASAP.

Regards,

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: Thursday, 01 September 2016 09:43
To: Lance Meyer <lmeyer@eris.co.za>
Cc: pes@palacegroup.co.za
Subject: RE: Parkside - Erf 2580

Dear Lance

Further to my email below, attached herein is a sale agreement for the transaction, sale / purchase of erf 2580 Umhlanga Rocks.

Kindly insert the buyer's registration number (I assumed that it was Eris Property Group Pty Ltd or if different please change the details of the buyer accordingly) on the cover page and clause 1.1.12 of the attached sale agreement; print, initial every page, sign where necessary, scan and email back to me today or at the latest before 17h00 on the 02nd September 2016 so that I may sign and send back to you before 17h00 on the 05th September 2016. If I do not receive the signed sale agreement from you by 17h00 on the 02nd September 2016, your offer and intent to purchase this property (erf 2580 Umhlanga Rocks) will fall away.

Trusting that this is in order.

Kind regards
Mbuso Dlamini

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: Wednesday, August 31, 2016 7:38 PM
To: 'Lance Meyer' <lmeyer@eris.co.za>
Cc: 'pes@palacegroup.co.za' <pes@palacegroup.co.za>
Subject: RE: Parkside - Erf 2580

Dear Lance

Thanks for the chat we had on the phone earlier on today; and also thanks for this expression of interest.

This email serves to confirm that erf 2580 Umhlanga Rocks, measuring site area of 4,175 square metres and 6,471 square metre bulk is still available; and that PEG HR Solutions Pty Ltd would be happy to take the sale of this erf to Eris forward at a price of R3,750.00 per square meter bulk (excluding VAT or transfer duty). The purchase price would be R24,266,250.00 (excluding VAT or transfer duty).

We wish to confirm that we would be keen to do a clean deal with you, where Eris buys erf 2580 and do their development as they wish.

If Eris is interested in taking this transaction further, urgently send me a draft sale agreement, so that we may go through it, comment and hopefully sign shortly in order to allow you to start constructing the office development for your client.

I await your draft sale agreement, which I hope to receive shortly.

Kind Regards
Mbuso Dlamini
Director
PEG HR Solutions Pty Ltd

From: Lance Meyer [mailto:lmeyer@eris.co.za]
Sent: Wednesday, August 31, 2016 2:51 PM
To: Mbuso Dlamini <mbuso@icon.co.za>
Subject: Parkside - Erf 2580

Dear Mbuso,

Per our conversation earlier today, we would have intent to purchase Erf 2580 (measuring 4,175m2 site area and 6,470,80m2 bulk) at R3,750.00m2 bulk.

We are under time pressure to secure a site and would require a clean transaction in terms of which there are no obligations or liabilities to 3rd parties.

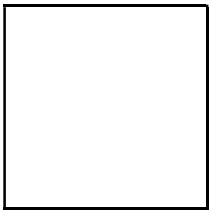
If in agreement, we would look to start the negotiation of a sale agreement which would be subject to our Board Approval within 30 days of signature.

Kindly confirm if the property is still available and if there is intent to take the transaction further.

Regards,

ERIS PROPERTY GROUP

Lance Meyer
Development Manager
Switchboard: +27 11 775 1000
Direct Line: +27 11 775 1311 | Mobile: +27 82 339 1548
Email: lmeyer@eris.co.za | Web: www.eris.co.za



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17-67

SALE OF IMMOVABLE PROPERTY AGREEMENT

between

PEG HR SOLUTIONS PROPRIETARY LIMITED

and

PAPATEKWE DEVELOPMENTS PROPRIETARY LIMITED

IN RESPECT OF ERF 2580, UMHLANGA ROCKS DURBAN

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SALE OF IMMOVABLE PROPERTY AGREEMENT

Between

PEG HR SOLUTIONS PROPRIETARY LIMITED
Registration number 2003/025572/07

("the Seller")

and

PAPATEKWE DEVELOPMENTS PROPRIETARY LIMITED
Registration number 2016/388505/07
("the Purchaser")

1. **INTERPRETATION**

1.1 In this Agreement, unless the context otherwise indicates:

1.1.1 "**Agreement**" means this Sale of Immovable Property Agreement;

1.1.1 **"Association"** means Umhlanga Ridge Town Centre Management Association, NPC, Registration No. 2001/000648/08;

1.1.2 **"Bulk"** means bulk as contemplated in the Town Planning Scheme applicable to the Property;

1.1.3 "**Conveyancers**" means Webber Wentzel, 90 Rivonia Road, Sandton, Johannesburg, 2196, the conveyancers nominated by the Seller to effect registration of transfer of the Property into the name of the Purchaser;

1.1.4 **"Design Review Committee"** means the Design Review Committee of the Association;

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1.1.5 "**Development Manual**" means the Umhlanga Ridge New Town Centre Development Manual Volume 2 Version 1.8 prepared by GAPP Architects and Urban Designers for the development of Mixed – Use Sites dated July 2008 and as amended and added to from time to time;

1.1.6 "**Directors**" means the directors of the Association;

1.1.7 "**Due Diligence Period**" means a period of 30 days from the Signature Date;

1.1.8 "**Effective Date**" means the date on which all of the Suspensive Conditions has been fulfilled or waived;

1.1.9 "**Municipality**" means the eThekwini Municipality;

1.1.10 "**Parties**" means, collectively, the Seller and the Purchaser, and "**Party**" shall mean any one of them, as the context may indicate;

1.1.11 "**Property**" means the vacant immovable property described as Erf 2580 Umhlanga Rocks, Registration Division FU, Province of KwaZulu-Natal, in extent 4 175 square metres, as reflected on SG 459/2007, with a Bulk of 6 471 square meters, held by the Seller under Deed of Transfer No 058950/07;

1.1.12 "**Purchase Price**" means the purchase price payable by the Purchaser to the Seller in respect of the Property being the amount referred to in clause 4.1;

1.1.13 "**Purchaser**" means Papatekwe Developments Proprietary Limited (Registration Number: 2016/388505/07), a company duly incorporated in terms of the laws of the Republic of South Africa;

1.1.14 "**SARS**" means the South African Revenue Service;

1.1.15 "**Seller**" means Peg HR Solutions Proprietary Limited (Registration Number: 2003/025572/07), a company duly incorporated in terms of the laws of the Republic of South Africa;

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1.1.16 "**Signature Date**" means the date on which this Agreement is signed by the last Party who signs;

1.1.17 "**Suspensive Conditions**" means the suspensive conditions referred to in clause 3.1;

1.1.18 "**Tongaat Hulett**" means Tongaat Hulett Developments Proprietary Limited, Registration No. 1981/012378/07;

1.1.19 "**Town Centre**" means "the Town Centre" as defined in the Association's Memorandum of Incorporation;

1.1.20 "**Transfer Date**" means the date of registration of transfer of the Property from the Seller to the Purchaser;

1.1.21 "**VAT**" means value-added tax in terms of the VAT Act; and

1.1.22 "**Writing**" (or words of similar meaning) means legible writing and in English and excludes any form of electronic communication contemplated in the Electronic Communications and Transactions Act.

1.2 Any reference to -

1.2.1 the singular includes the plural and *vice versa*;

1.2.2 natural Persons include juristic Persons and *vice versa*;

1.2.3 any one sex or gender includes the other sexes or genders, as the case may be;

1.2.4 any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment or legislative measure of government (Including local or provincial government) statutory or regulatory body which has the force of Law means the relevant enactment or legislative measure as at the Signature Date and as amended or re-enacted from time to time;

1.2.5 a Party includes a reference to that Party's estate, successors in title and assigns allowed at Law; and

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1.2.6 "Business Day" means any Day other than a Saturday, Sunday or South African Public Holiday;

1.2.7 "Calendar Month" means one of the 12 Months of the Year from the 1st to the last Day of such Month;

1.2.8 "Day" means a calendar Day;

1.2.9 "Month" means a Month calculated from a particular Day in one Month to the Day before the Day numerically corresponding to it in the following Month;

1.2.10 "Year" means a year calculated from a particular Day in one year to the Day before the Day numerically corresponding to it in the following year;

1.3 Whenever any number of Days is prescribed, it excludes the first and includes the last Day unless the last Day falls on a Saturday, Sunday or South African public holiday in which case the last Day will be the next succeeding business Day.

1.4 The words “shall” and “will” and “must” used in the context of any obligation or restriction imposed on a Party have the same meaning.

1.5 The clause headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation.

1.6 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.7 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to that provision as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.

1.8 If any period is referred to in this Agreement by way of a reference to a number of Days or weeks or Months or other intervals, the period shall be reckoned exclusively of the 1st Day and inclusively of the last Day of the

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relevant interval, unless the last Day falls on a Day which is not a business Day, in which case the last Day shall be the next succeeding business Day.

1.9 If the due date for performance of any obligation in terms of this Agreement is a Day which is not a Business Day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately succeeding Business Day.

1.10 If any obligation or act is required to be performed on a particular Day it shall be performed (unless otherwise stipulated) by 16h00 (local time at the place where the obligation or act is required to be performed) on that Day.

1.11 This Agreement shall be governed, interpreted and enforced in accordance with the Laws of the Republic of South Africa from time to time.

1.12 No provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement.

1.13 The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply.

1.14 The terms defined in this Agreement shall bear the same meanings in any annexures hereto.

2. THE SALE

The Seller sells the Property to the Purchaser (which purchases the Property from the Seller) for the Purchase Price and on the terms and conditions set out in this Agreement.

3. SUSPENSIVE CONDITIONS

3.1 Except for clauses 3, 5, 7.1 and 19 to 21 (and any other provision necessary to give effect to those clauses), all of which shall be of full force and effect and operative from the Signature Date, the operation of this Agreement shall be subject to the suspensive conditions that by no later than:

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3.1.1 the last day of the Due Diligence Period, the Purchaser provides the Seller with Written confirmation that it is satisfied with the results of the due diligence investigation which it will be conducting in terms of clause 5, in respect of the Property;

3.1.2 45 days after the Signature Date, the Purchaser provides the Seller with Written confirmation that its board of directors has approved the conclusion of this Agreement and the implementation of the transactions contemplated herein;

3.1.3 60 days after the Signature Date, the Seller has provided the Purchaser with confirmation that Tongaat Hulett has consented in Writing to (i) the removal of the restrictive condition imposed in its favour in paragraph G (a) in Deed of Transfer No T 58951/2007 (the "**Restrictive Condition**") simultaneously with registration of transfer of the Property into the name of the Purchaser and (ii) the conclusion of a notarial deed to give effect thereto, Or the Purchaser has reached agreement in writing with Tongaat Hullett with respect to the application of the above restriction condition after transfer of the Property to the Purchaser pursuant to this Agreement.

3.2 The due date/s for the fulfilment of any one or more of the Suspensive Conditions may be extended by the Parties by agreement in Writing between the Parties.

3.3 The Suspensive Conditions are in favour of the Purchaser and may be waived by the Purchaser in writing prior to the date for fulfilment of the conditions (or any agreed extended date).

3.4 If the Suspensive Conditions remain unfulfilled and the fulfilment thereof is not waived by the Purchaser by the due date from the fulfilment thereof (or any agreed extended date), then the Agreement will be of no force and effect and:

3.4.1 to the extent that this Agreement may have been partially implemented, the Parties must as far as possible be restored to the positions they were in prior to the Signature Date;

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3.4.2 no Party will have any claim against the other arising out of or in connection with this Agreement.

4. PURCHASE PRICE AND PAYMENT

4.1 The Purchase Price for the Property is R25 884 000 (Twenty Five Million Eight Hundred and Eighty Four Thousand Rand) excluding VAT, if any, payable to the Seller on the Transfer Date. This figure was arrived at by multiplying the Bulk of 6,471 metres squared attributable to the Property by R4,000.00 per metre squared.

4.2 Payment of the Purchase Price together with VAT thereon, if applicable must be secured by the Purchaser lodging a bank guarantee for the full Purchase Price, plus VAT, if any, with the Conveyancers within 45 Days of the Effective Date.

4.3 The guarantee referred to in clause 4.2 shall be from a South African bank and on terms and conditions reasonably acceptable to the Seller, in favour of the Seller or the Seller's nominee, drawn and payable:

4.3.1 on a South African bank;

4.3.2 on cancellation of any existing mortgage bond/s over the Property;

4.3.3 on registration of transfer of the Property by the Seller into the name of the Purchaser; and

4.3.4 on registration of a new mortgage bond in favour of the bank that the Purchaser procures mortgage loan finance (to the extent required by the Purchaser).

4.4 The Purchaser shall (to the extent required by the Purchaser) be registering a mortgage bond over the Property simultaneously with transfer of the Property to the Purchaser.

4.5 All payments in terms of or arising out of this Agreement must be made without demand and free of all charges to the Party entitled to payment.

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5. DUE DILIGENCE

5.1 During the Due Diligence Period, the Purchaser may undertake a due diligence investigation into the Property.

5.2 The Seller undertakes throughout the Due Diligence Period to:

5.2.1 co-operate with the Purchaser, its authorised representatives, employees, attorneys and auditors (together "the Purchaser's Team");

5.2.2 make available and, where required, provide copies to the Purchaser's team of all documents, books, records, electronic data and information requested by the Purchaser for the purpose of the due diligence investigation; and

5.2.3 ensure that the Seller, its officers, employees, agents, auditors and advisers answer questions from the Purchaser's team and provide all information and documents that may be required by the Purchaser's Team, in both instances within 48 hours of request.

5.3 The Purchaser undertakes to keep all information disclosed to it for the purposes of the due diligence investigation strictly confidential and undertakes not to use such information or disclose any such information to any person, other than the Purchaser's Team who are required to consider and evaluate it. This undertaking does not apply to any information which is not confidential or is public knowledge or which is or falls into the public domain through no fault of the Purchaser.

6. TRANSFER OF THE PROPERTY

6.1 The Property must be registered in the name of the Purchaser within a reasonable time after the Effective Date and:

6.1.1 the Parties must ensure that their tax affairs are up to date as required by SARS to facilitate prompt issue by SARS of the transfer duty receipt or transfer duty exemption receipt (as the case may be) required for the purposes of effecting registration of transfer;

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6.1.2 the Seller must do everything required to enable the Municipality to promptly issue a rates clearance certificate for the Property including but not limited to paying all rates and taxes (including all arrear rates and taxes) as are payable to the Municipality to procure the issue of such rates clearance certificate; and

6.1.3 the Seller must do everything required to enable the Association to promptly issue a clearance certificate for the Property including but not limited to paying all levies (including all arrear levies) as are payable to the Association to procure the issue of such clearance certificate.

6.2 Each Party must, within 7 Days after being called upon to do so by the Conveyancers, sign all documents required to be signed and furnish all documents required to be furnished by that Party to enable transfer of the Property to be given to the Purchaser. The Seller acknowledges and agrees that it shall be obliged to procure that a Notarial Deed is concluded between itself and Tongaat Hulett in terms of which the Restrictive Condition shall be deleted and (ii) such notarial deed is registered simultaneously with registration of transfer of the Property into the name of the Purchaser such that the Property is transferred by the Seller to the Purchaser free of the Restrictive Condition.

7. OCCUPATION AND RISK

7.1 The Seller agrees from the Signature Date to grant the Purchaser and its agents reasonable access to the Property by pre-arrangement with the Seller, at all reasonable times, for purposes of investigation, survey, soil testing, environmental and planning investigations, and any other investigations which the Purchaser may in its sole discretion deem necessary.

7.2 On the Transfer Date the Seller must give the Purchaser vacant occupation of the Property.

7.3 With effect from the Transfer Date:

7.3.1 all the benefit and risk of ownership of the Property will pass to the Purchaser;

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7.3.2 the Purchaser is liable for all rates, taxes and other charges levied on the Property;

7.3.3 the Purchaser is liable for all levies to the Association.

8. PURCHASER'S ACKNOWLEDGMENTS AND UNDERTAKINGS

8.1 The Purchaser:

8.1.1 acknowledges that it is aware of the intended future development of the Town Centre by Tongaat Hulett and that such development is intended to involve the establishment of high quality business and commercial premises and residential dwellings on various portions of the Town Centre and so designed as to facilitate an aesthetic and harmonious blending with the environment;

8.1.2 undertakes that it will not, without reasonable grounds for doing so:

8.1.2.1 interfere with any such proposed development; nor

8.1.2.2 lodge any objection with any competent authority in respect of any such development;

8.1.3 agrees that it will not, without reasonable grounds for doing so, object to any application made by or on behalf of Tongaat Hulett, its nominee or agent for special usage consent, licences for shopping, commercial or filling station rights, rezoning, removal of conditions of title under the Removal of Restrictive Conditions Act or by way of any application to Court or to any local or other competent authority in respect of any property within the Town Centre;

8.1.4 specifically acknowledges that it is aware that owners of land surrounding the Property will be erecting buildings or other structures on such surrounding land which may block or otherwise interfere with the views from the Property and the Purchaser agrees that it shall have no right, without reasonable cause, to object to the construction of any building or other structure on land in the Town Centre on the basis that such building or other structure blocks or otherwise interferes with the views from the Property, nor will it have any claim for any alleged

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diminution in the value of the Property arising out of any interference with the views from the Property by reason of the construction of any such building or structure where it has been afforded an opportunity to object thereto and has not, on reasonable grounds, objected thereto;

8.1.5 acknowledges that no buildings or alterations or extension to any existing buildings or any other structures may be erected on the Property other than in accordance with plans approved by the Association acting through the Design Review Committee and the Purchaser agrees that it will have no claim whatsoever, arising out of whatever cause, against the Association, any members of the Design Review Committee or Tongaat Hulett or the Seller for any loss suffered by reason of the Design Review Committee refusing to approve or delay the approval of any plans submitted by the Purchaser save where the Purchaser can prove mala fides on the part of the Design Review Committee or where the decision was not made in accordance with the Association's Memorandum of Incorporation as read with the Development Manual and the Architectural Controls;

9. COSTS

9.1 The Purchaser is liable for, and must on receipt of an account from the Conveyancers pay:

9.1.1 the legal costs of and incidental to the transfer of the Property (levied at 50% of the prescribed tariff fee) other than those specified in clause 9.2;

9.1.2 VAT on the Purchase Price, if any;

9.1.3 Transfer duty, if there is no VAT on the Purchase Price; and

9.1.4 VAT payable on the costs payable by the Purchaser in terms of this clause 9.1.

9.2 Any costs in connection with the cancellation of existing bonds and of any other rights which require to be cancelled to enable the Property to be transferred to the Purchaser, the amendment or replacement of the Seller's

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title deed or the withdrawal of judicial attachments, interdicts, caveats or other bars to transfer must be paid by the Seller.

9.3 Each Party is liable for its own legal costs of and incidental to the negotiation, drafting, settlement and signature of this Agreement.

10. LEVIES TO ASSOCIATION

10.1 From the Transfer Date, the Purchaser shall be responsible to pay a monthly levy to the Association as contemplated in the Memorandum of Incorporation of the Association.

10.2 The monthly levy payable to the Association shall be calculated in accordance with the provisions of the Memorandum of Incorporation of the Association.

11. MEMBERSHIP OF THE UMHLANGA RIDGE TOWN CENTRE MANAGEMENT ASSOCIATION NPC

11.1 The Purchaser acknowledges that it shall be obliged to become and remain a Member of the Association from the Transfer Date and the Purchaser undertakes to comply in every respect with the Association's Memorandum of Incorporation and the rules made in terms thereof at all time, and to ensure that any person who comes upon the Property, or the Town Centre by virtue of the Purchaser's rights thereto, does likewise.

12. RULES OF THE ASSOCIATION

12.1 The Purchaser acknowledges that the Directors have the power to make rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Town Centre, for the purposes of giving proper effect to the provisions of the Memorandum of Incorporation of the Association and for any other purpose, which powers shall include the right to impose reasonable financial penalties to be paid by those members who fail to comply with the provisions of the Memorandum of Incorporation or the Rules.

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12.2 The Purchaser acknowledges that, subject to the provisions of this Agreement, the Memorandum of Incorporation and the Development Manual, the Directors shall be entitled at all times to lay down rules in regard to -

12.2.1 the preservation of the natural environment;

12.2.2 vegetation and flora and fauna in the Town Centre;

12.2.3 the placing of movable objects upon or outside the buildings included in the Town Centre, including the power to remove any such objects;

12.2.4 the storing of flammable and other harmful substances;

12.2.5 the conduct of any persons within the Town Centre and the prevention of nuisance of any nature to any owner of immovable property in the Town Centre;

12.2.6 the use of land within the Town Centre having regard to the intended retail, commercial and mixed use of the Town Centre, (including but in no way limited to, the level of noise emanating from the use of the property and the parking and traffic implications of same);

12.2.7 the use of roads, pathways and open spaces;

12.2.8 the imposition of fines and other penalties to be paid by Members of the Association;

12.2.9 the management, administration and control of the common areas and open spaces;

12.2.10 the Design Guidelines for the erection of all buildings and other structures, including service connections to buildings;

12.2.11 the Design Guidelines for the establishment, installation and maintenance of gardens, both public and private;

12.2.12 the use by owners and their tenants of buildings and other structures and the upkeep, aesthetics and maintenance of such buildings;

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12.2.13 the use of adjoining sidewalks, road frontages and parking areas;

12.2.14 security; and

12.2.15 generally in regard to any other matter which the Directors of the Association from time to time consider appropriate and in the best interests of its Members, and the Purchaser undertakes and shall be obliged, with effect from the Transfer Date, to abide by such rules as if it was the owner of the Property and to ensure that all tenants, nominees, invitees and other persons who occupy or enter upon the Property and its surrounds by virtue of the Purchaser's rights thereto, do likewise.

12.3 The Purchaser shall be obliged to bring the Rules to the attention of any tenant prior to such tenant taking possession of the Property or any portion thereof.

13. **MUNICIPAL SERVICES**

The Purchaser acknowledges that should the Municipality or any other service provider not have the means, or be unwilling, or agree to delegate the obligation to the Association, to maintain or provide municipal services within the Town Centre, the Association may, if the Association in its sole discretion deems it appropriate, take over the responsibility for providing and maintaining such services and/or enhanced services.

14. **AGENT'S COMMISSION**

No agents commission is due by either Party on this transaction.

15. **WARRANTIES**

15.1 The Seller warrants with regards to the Property that:

15.1.1 the Property is beneficially owned by the Seller which will be able to give free and unencumbered title thereof to the Purchaser in accordance with the provisions of the Agreement;

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15.1.2 no person has or, on the Transfer Date, will have any rights of acquisition (including options, rights of pre-emption or rights of first refusal) in respect of the Property nor any right to encumber the Property;

15.1.3 no legal action has been instituted against the Seller and the Seller has no knowledge of any contemplated legal action in terms whereof the Property may be attached and the transfer thereof may be interdicted;

15.1.4 the Property is not and, on the Transfer Date, will not be subject to any leases or other rights of occupation in favour of any person;

15.1.5 no part of the Property is occupied by any illegal occupant;

15.1.6 the Property is not contaminated and/or polluted arising from any activity conducted on or about the Property by the Seller and/or any of its predecessors in title and/or their respective invitees or otherwise howsoever and the Purchaser will not incur any liability, obligation or penalty of whatever nature in terms of the National Environmental Management Act 1998 and/or any other law relating to the maintenance and/or protection of the natural environment by virtue of its ownership of the Property;

15.1.7 the Property is not and, on the Transfer Date, will not be subject to any unregistered servitudes or other unregistered real rights;

15.1.8 the Bulk attributable to the Property is 6 471 square metres;

15.1.9 to the knowledge of the Seller, the Property is not land in respect of which any person may make a claim (or has made a claim which is unresolved) as envisaged in the Restitution of Land Rights Act, No. 22 of 1994 (as amended) or any other similar claims;

15.1.10 there is no proposal to amend the zoning of the Property.

15.2 For the purposes hereof, “knowledge” includes all matters in respect of which the Seller has actual knowledge or could, through making reasonable enquires in this regard, have acquired actual knowledge. Furthermore, a matter shall be regarded as material if its disclosure prior to the Signature

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Date would have caused the Purchaser, acting reasonably, not to have entered into the Agreement either at all or on the terms and conditions set out in the Agreement. The Parties record and agree that a breach by the Seller of the warranty contained in clause 15.1.2 shall be a material breach of this Agreement.

15.3 The warranties provided herein shall be given as at the Signature Date and the Transfer Date (save unless expressly stated or where clearly inappropriate).

16. **NOMINATION OF NEW PURCHASER**

16.1 The Purchaser shall be entitled, no later than 7 Days from the Effective Date, to nominate a third party as purchaser, in whole or in part, under this Agreement in its place and stead ("the Second Purchaser") in which event the Seller hereby agrees that this sale to the Purchaser shall be cancelled with effect from the date of signature of a new sale agreement between the Seller, on the one part, and the Second Purchaser and (where the Purchaser has nominated a third party to assume its obligations in part) the Purchaser, on the other part, on the same terms and conditions, mutatis mutandis, as set out in this Agreement save that-

16.1.1 the purchaser shall be defined as the person who is the Second Purchaser and (where the Purchaser has nominated a third party to assume its obligations in part) the Purchaser;

16.1.2 any cancellation and new sale is subject to the condition that:

16.1.2.1 the second Purchaser must be in existence on the date of the new sale;

16.1.2.2 there are no suspensive conditions in the new sale.

16.2 The Parties undertake to forthwith do all things within their respective powers to ensure the signature of the new sale agreement occurs within 7 Days of date of acceptance of the nomination by the Second Purchaser.

16.3 It is recorded that:

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16.3.1 no consideration shall be payable to any person in respect of the cancellation of this Agreement;

16.3.2 the Seller shall not receive any amounts from the Purchaser (whether in respect of the purchase price payable under this Agreement or otherwise), which will require to be refunded as a result of the cancellation of this Agreement.

17. FICA AND POCA

17.1 The Purchaser acknowledges that:

17.1.1 the Conveyancers are designated as an "accountable institution" in terms of FICA;

17.1.2 certain obligations are placed on the Conveyancers in terms of FICA and the POCA and regulations promulgated in terms thereof; and

17.1.3 the Conveyancers will not invest and administer any deposits or any other monies paid by the Purchaser in terms of this Agreement unless the Purchaser has provided the Conveyancers with the documents that they require in terms of FICA and signed an authority to invest.

17.2 The Purchaser undertakes to comply with all requirements of and supply all information and documentation required by the Conveyancers to enable the Conveyancers to fulfil their obligations in terms of FICA and POCA and the regulations thereunder.

18. MUTUAL WARRANTIES AND REPRESENTATIONS

Each Party hereby represents and warrants to the other that:

18.1 it has the requisite power to enter into this Agreement and to exercise its rights and perform its obligations hereunder;

18.2 all authorities or other actions required to authorise its execution of this Agreement and its performance of its obligations hereunder have been duly taken;

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18.3 the execution of this Agreement and its exercise of its rights and performance of its obligations hereunder do not constitute and will not, to the best of its knowledge and belief, result in any breach of any agreement, law or treaty;

18.4 this Agreement is executed by its duly authorised representative;

18.5 all acts, conditions and other things required to be done, fulfilled and performed in order:

18.5.1 to enable it lawfully to enter into, exercise its rights under and perform its obligations expressed to be assumed by it in this Agreement;

18.5.2 to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid and binding; and

18.5.3 to make this Agreement admissible in evidence in South Africa,

have been done, fulfilled and performed.

19. **BREACH**

19.1 If either Party breaches any provision of this Agreement and remains in breach for 14 days after receipt of written notice by such Party requiring that Party to rectify that breach, the other Party shall be entitled at that Party's option:

19.1.1 to sue for the immediate specific performance of any or all the defaulting Party's obligations under this Agreement whether or not any such obligation is then due; or

19.1.2 (either as an alternative to a claim for specific performance or upon the abandonment of such a claim) to cancel this Agreement. Written notice of such cancellation shall be given to the defaulting Party and the cancellation shall take effect on the giving of such notice.

19.2 In the event of either Party cancelling this Agreement in terms of the preceding sub-clause, the aggrieved Party shall be entitled to claim damages suffered related to such cancellation.

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19.3 The Parties' remedies in terms of this clause are without prejudice to any other remedies to which the Parties may be entitled in law.

19.4 The Parties acknowledge and agree that, in the event of registration of transfer of the Property into the name of the Purchaser being delayed by virtue of a third party (i) laying claim to the Property and/or (ii) claiming that the Seller has undertaken to sell the Property to such third party and/or (iii) seeking to prevent and/or interdict the transfer to the Purchaser by virtue of any alleged act or omission on the part of the Seller, the Purchaser shall be entitled to:

19.4.1 withdraw any guarantee issued on its behalf to secure payment of the Purchaser Price and shall only be obliged to again provide the Seller with a guarantee to secure payment of the Purchase Price once it has been provided with such documentary evidence as the Purchaser may reasonably require that such third party claim will no longer delay transfer; or

19.4.2 proceed in accordance with clause 19.1 (for which purposes the Seller shall be deemed to be in breach of its obligations in terms of this Agreement).

20. NOTICES AND ADDRESSES FOR SERVICE

20.1 Unless otherwise specified any notice or communication in terms of this Agreement:

20.1.1 must be in writing to be effective;

20.1.2 must be sent by hand, registered post or e-mail to the addresses below, which physical addresses the Parties select as their respective domicilium citandi et executandi:

20.2 Unless otherwise specified any notice or communication in terms of this Agreement:

20.2.1 must be in writing to be effective;

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20.2.2 must be sent by hand, registered post or e-mail to the addresses/ numbers below, which physical addresses the Parties select as their respective domicilium citandi et executandi:

the Seller	2nd Floor, West Tower, Maude Street, Nelson Mandela Square, Sandton. 2196. RSA. PO Box 785553, Sandton. 2146. E-mail: mbuso.dlamini@palacegroup.co.za
the Purchaser	3 Gwen Lane, Sandton, Johannesburg, 2000. PO Box 786130, Sandton, 2146. Email: lmeyer@eris.co.za

20.3 A Party may change its address to any other address within South Africa. Such change will only take effect upon receipt or deemed receipt of such notice by the other Party.

20.4 Any notice or communication shall:

20.4.1 if delivered by hand during business hours to the person apparently in charge of the Property selected by the addressee for the delivery of notices, be deemed to have been received on the date of delivery;

20.4.2 if sent by registered post to the selected address, be deemed to have been received 6 days after posting; and

20.4.3 if sent by e-mail to the selected e-mail address of the addressee, be deemed to have been received on the first business day following the date on which it has been transmitted from the information system under the control of the sender.

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20.5 Any written notice or communication which has actually been received by a Party shall be regarded as sufficient notice even if it has not been sent in the manner or to the address number provided for above.

21. MISCELLANEOUS LEGAL PROVISIONS

21.1 This is the whole agreement between the Parties containing all of the express provisions agreed on by the Parties with regard to the subject matter hereof.

21.2 No Party may rely on any representation which allegedly induced that Party to enter into this agreement, unless the representation is recorded herein.

21.3 No agreement varying, adding to, deleting from or cancelling this agreement (including this clause) and no waiver of any right under this agreement shall be effective unless in writing and signed by or on behalf of the Parties.

21.4 No relaxation by a Party of any of its rights in terms of this agreement at any time shall prejudice or be a waiver of its rights (unless it is a signed written waiver) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.

21.5 No Party may cede, delegate, assign or sub-contract any of its rights or obligations in terms of this Agreement without the prior written consent of the other Parties.

21.6 This Agreement may be signed by the Parties in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement.

21.7 Since the provisions of this Agreement have been settled by negotiation and each Party has been free to secure independent legal advice, the rule of construction that clauses must be interpreted against the Party principally responsible for drafting does not apply.

21.8 Where an expression has been defined and such definition contains a provision conferring a right or imposing an obligation on any Party, then notwithstanding that it is contained only in a definition, effect must be given

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to that provision as if it were a substantive provision contained in the body of this Agreement.

21.9 Words or expressions defined in any particular clause in the body of this agreement must bear the meaning so assigned to it throughout this Agreement unless the context indicates otherwise.

21.10 The *eiusdem generis* rule does not apply so that whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "including" and specific examples, such examples must not be construed so as to limit the general ambit of the provision concerned.

21.11 A reference to any legislation (including statutes, ordinances, regulations and by-laws) must be construed as a reference to that legislation as at the date of signature of this agreement and as may be amended or re-enacted or substituted from time to time.

21.12 A reference to any statutory body or court or to any association for the purposes appointing an expert or arbitrator must be construed as a reference to that statutory body or court or association as at the date of signature and any successor.

21.13 A reference to any legal principle, doctrine or process under South African law includes a reference to the equivalent or analogous principle, doctrine or process in any other jurisdiction in which the provisions of this agreement may apply or to the laws of which a Party may be or become subject.

21.14 The expiration or termination of this Agreement does not affect such of its provisions which of necessity must continue to apply after such expiration or termination.

21.15 Headings of clauses are inserted for the purpose of convenience only and must be ignored in the interpretation of this Agreement.

21.16 Unless inconsistent with the context, words signifying any one gender will include the others, words signifying the singular will include the plural and

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vice versa and words signifying natural persons will include artificial persons and vice versa.

21.17 Any reference to an amount in this Agreement means that amount is exclusive of VAT unless specified otherwise.

21.18 The various documents forming part of this Agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the Agreement will prevail.

21.19 Each Party must bear its own legal costs incidental to the negotiation, preparation and implementation of this Agreement.

21.20 Any costs incurred by a Party arising out of the breach by any other Party of the any of the provisions of this Agreement must be borne by the Party in breach on an attorney and own client scale.

SIGNED at _____ this _____ day of _____ 2016

For **PAPATEKWE DEVELOPMENTS PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this Agreement on its behalf

Full names ……

Designation ……..

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SIGNED at _____ this _____ day of _____ 2016

For **PEG HR SOLUTIONS PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this Agreement on its behalf

Full names ……

Designation ……..

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Mbuso

From: Mbuso Dlamini <mbuso@icon.co.za>
Sent: Monday, 19 September 2016 12:42
To: 'du Plessis, Jean'
Subject: FW: Parkside - Erf 2580
Attachments: New Town Centre Erf 2579 - Vacant Land Purchase - Final 19 09 2016.docx

Dear Mr Du Plessis

Attached is the sale agreement which Eris sent me this morning where they have added the condition that they are buying the property should the hotel deal not go through by the 23rd September 2016.

How do we move forward now that Hodari has come back with the letter I sent you in the previous email; and Eris is wanting to buy erf 2580 as per the attached sale agreement?

Kindly call me as soon as you have had a chance to go through the Hodari and the Eris documets.

Eris wants to sign before close of business day today.

Kind Regards
Mbuso

SALE OF IMMOVABLE PROPERTY AGREEMENT

between

PEG HR SOLUTIONS PROPRIETARY LIMITED

and

PAPATEKWE DEVELOPMENTS PROPRIETARY LIMITED

IN RESPECT OF ERF 2580, UMHLANGA ROCKS DURBAN

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SALE OF IMMOVABLE PROPERTY AGREEMENT

Between

PEG HR SOLUTIONS PROPRIETARY LIMITED
Registration number 2003/025572/07

("the Seller")

and

PAPATEKWE DEVELOPMENTS PROPRIETARY LIMITED
Registration number 2016/388505/07
("the Purchaser")

1. **INTERPRETATION**

1.1 In this Agreement, unless the context otherwise indicates:

1.1.1 "**Agreement**" means this Sale of Immovable Property Agreement;

1.1.1 **"Association"** means Umhlanga Ridge Town Centre Management Association, NPC, Registration No. 2001/000648/08;

1.1.2 **"Bulk"** means bulk as contemplated in the Town Planning Scheme applicable to the Property;

1.1.3 "**Conveyancers**" means Webber Wentzel, 90 Rivonia Road, Sandton, Johannesburg, 2196, the conveyancers nominated by the Seller to effect registration of transfer of the Property into the name of the Purchaser;

1.1.4 **"Design Review Committee"** means the Design Review Committee of the Association;

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1.1.5 "**Development Manual**" means the Umhlanga Ridge New Town Centre Development Manual Volume 2 Version 1.8 prepared by GAPP Architects and Urban Designers for the development of Mixed – Use Sites dated July 2008 and as amended and added to from time to time;

1.1.6 "**Directors**" means the directors of the Association;

1.1.7 "**Due Diligence Period**" means a period of 30 days from the Signature Date;

1.1.8 "**Effective Date**" means the date on which all of the Suspensive Conditions has been fulfilled or waived;

1.1.9 "**Municipality**" means the eThekwini Municipality;

1.1.10 "**Parties**" means, collectively, the Seller and the Purchaser, and "**Party**" shall mean any one of them, as the context may indicate;

1.1.11 "**Property**" means the vacant immovable property described as Erf 2580 Umhlanga Rocks, Registration Division FU, Province of KwaZulu-Natal, in extent 4 175 square metres, as reflected on SG 459/2007, with a Bulk of 6 471 square meters, held by the Seller under Deed of Transfer No 058950/07;

1.1.12 "**Purchase Price**" means the purchase price payable by the Purchaser to the Seller in respect of the Property being the amount referred to in clause 4.1;

1.1.13 "**Purchaser**" means Papatekwe Developments Proprietary Limited (Registration Number: 2016/388505/07), a company duly incorporated in terms of the laws of the Republic of South Africa;

1.1.14 "**SARS**" means the South African Revenue Service;

1.1.15 "**Seller**" means Peg HR Solutions Proprietary Limited (Registration Number: 2003/025572/07), a company duly incorporated in terms of the laws of the Republic of South Africa;

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1.1.16 "**Signature Date**" means the date on which this Agreement is signed by the last Party who signs;

1.1.17 "**Suspensive Conditions**" means the suspensive conditions referred to in clause 3.1;

1.1.18 "**Tongaat Hulett**" means Tongaat Hulett Developments Proprietary Limited, Registration No. 1981/012378/07;

1.1.19 "**Town Centre**" means "the Town Centre" as defined in the Association's Memorandum of Incorporation;

1.1.20 "**Transfer Date**" means the date of registration of transfer of the Property from the Seller to the Purchaser;

1.1.21 "**VAT**" means value-added tax in terms of the VAT Act; and

1.1.22 "**Writing**" (or words of similar meaning) means legible writing and in English and excludes any form of electronic communication contemplated in the Electronic Communications and Transactions Act.

1.2 Any reference to -

1.2.1 the singular includes the plural and *vice versa*;

1.2.2 natural Persons include juristic Persons and *vice versa*;

1.2.3 any one sex or gender includes the other sexes or genders, as the case may be;

1.2.4 any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment or legislative measure of government (Including local or provincial government) statutory or regulatory body which has the force of Law means the relevant enactment or legislative measure as at the Signature Date and as amended or re-enacted from time to time;

1.2.5 a Party includes a reference to that Party's estate, successors in title and assigns allowed at Law; and

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1.2.6 "Business Day" means any Day other than a Saturday, Sunday or South African Public Holiday;

1.2.7 "Calendar Month" means one of the 12 Months of the Year from the 1st to the last Day of such Month;

1.2.8 "Day" means a calendar Day;

1.2.9 "Month" means a Month calculated from a particular Day in one Month to the Day before the Day numerically corresponding to it in the following Month;

1.2.10 "Year" means a year calculated from a particular Day in one year to the Day before the Day numerically corresponding to it in the following year;

1.3 Whenever any number of Days is prescribed, it excludes the first and includes the last Day unless the last Day falls on a Saturday, Sunday or South African public holiday in which case the last Day will be the next succeeding business Day.

1.4 The words “shall” and “will” and “must” used in the context of any obligation or restriction imposed on a Party have the same meaning.

1.5 The clause headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation.

1.6 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.7 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to that provision as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.

1.8 If any period is referred to in this Agreement by way of a reference to a number of Days or weeks or Months or other intervals, the period shall be reckoned exclusively of the 1st Day and inclusively of the last Day of the

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relevant interval, unless the last Day falls on a Day which is not a business Day, in which case the last Day shall be the next succeeding business Day.

1.9 If the due date for performance of any obligation in terms of this Agreement is a Day which is not a Business Day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately succeeding Business Day.

1.10 If any obligation or act is required to be performed on a particular Day it shall be performed (unless otherwise stipulated) by 16h00 (local time at the place where the obligation or act is required to be performed) on that Day.

1.11 This Agreement shall be governed, interpreted and enforced in accordance with the Laws of the Republic of South Africa from time to time.

1.12 No provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement.

1.13 The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply.

1.14 The terms defined in this Agreement shall bear the same meanings in any annexures hereto.

2. THE SALE

The Seller sells the Property to the Purchaser (which purchases the Property from the Seller) for the Purchase Price and on the terms and conditions set out in this Agreement.

3. SUSPENSIVE CONDITIONS

3.1 Except for clauses 3, 5, 7.1 and 19 to 21 (and any other provision necessary to give effect to those clauses), all of which shall be of full force and effect and operative from the Signature Date, the operation of this Agreement shall be subject to the suspensive conditions that by no later than:

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3.1.1 the last day of the Due Diligence Period, the Purchaser provides the Seller with Written confirmation that it is satisfied with the results of the due diligence investigation which it will be conducting in terms of clause 5, in respect of the Property;

3.1.2 45 days after the Signature Date, the Purchaser provides the Seller with Written confirmation that its board of directors has approved the conclusion of this Agreement and the implementation of the transactions contemplated herein;

3.1.3 the 23 September 2016, the Seller has not concluded an unconditional sale agreement for the Property with a 3rd party Developer for the development of a Hotel. For purposes of clarity it is hereby confirmed that this suspensive condition clause shall be deemed to be fulfilled if by the close of business on the 23 September 2016, the Seller has not provided the Purchaser with a copy of the signed unconditional sale agreement concluded between the Seller and 3rd party Hotel Developer;

3.1.4 60 days after the Signature Date, the Seller has provided the Purchaser with confirmation that Tongaat Hulett has consented in Writing to (i) the removal of the restrictive condition imposed in its favour in paragraph G (a) in Deed of Transfer No T 58951/2007 (the "**Restrictive Condition**") simultaneously with registration of transfer of the Property into the name of the Purchaser and (ii) the conclusion of a notarial deed to give effect thereto, Or the Purchaser has reached agreement in writing with Tongaat Hullett with respect to the application of the above restriction condition after transfer of the Property to the Purchaser pursuant to this Agreement.

3.2 The due date/s for the fulfilment of any one or more of the Suspensive Conditions may be extended by the Parties by agreement in Writing between the Parties.

3.3 The Suspensive Conditions contained in clauses 3.1.1, 3.1.2 and 3.1.4 are in favour of the Purchaser and may be waived by the Purchaser in writing prior to the date for fulfilment of the conditions (or any agreed extended date).

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3.4 If the Suspensive Conditions remain unfulfilled and the fulfilment thereof is not waived by the Purchaser by the due date from the fulfilment thereof (or any agreed extended date), then the Agreement will be of no force and effect and:

3.4.1 to the extent that this Agreement may have been partially implemented, the Parties must as far as possible be restored to the positions they were in prior to the Signature Date;

3.4.2 no Party will have any claim against the other arising out of or in connection with this Agreement.

4. PURCHASE PRICE AND PAYMENT

4.1 The Purchase Price for the Property is R25, 884, 000 (Twenty Five Million Eight Hundred and Eighty Four Thousand Rand) excluding VAT, if any, payable to the Seller on the Transfer Date. This figure was arrived at by multiplying the Bulk of 6,471 metres squared attributable to the Property by R4,000 per metre squared.

4.2 Payment of the Purchase Price together with VAT thereon, if applicable must be secured by the Purchaser lodging a bank guarantee for the full Purchase Price, plus VAT, if any, with the Conveyancers within 45 Days of the Effective Date.

4.3 The guarantee referred to in clause 4.2 shall be from a South African bank and on terms and conditions reasonably acceptable to the Seller, in favour of the Seller or the Seller's nominee, drawn and payable:

4.3.1 on a South African bank;

4.3.2 on cancellation of any existing mortgage bond/s over the Property;

4.3.3 on registration of transfer of the Property by the Seller into the name of the Purchaser; and

4.3.4 on registration of a new mortgage bond in favour of the bank that the Purchaser procures mortgage loan finance (to the extent required by the Purchaser).

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4.4 The Purchaser shall (to the extent required by the Purchaser) be registering a mortgage bond over the Property simultaneously with transfer of the Property to the Purchaser.

4.5 All payments in terms of or arising out of this Agreement must be made without demand and free of all charges to the Party entitled to payment.

5. DUE DILIGENCE

5.1 During the Due Diligence Period, the Purchaser may undertake a due diligence investigation into the Property.

5.2 The Seller undertakes throughout the Due Diligence Period to:

5.2.1 co-operate with the Purchaser, its authorised representatives, employees, attorneys and auditors (together "the Purchaser's Team");

5.2.2 make available and, where required, provide copies to the Purchaser's team of all documents, books, records, electronic data and information requested by the Purchaser for the purpose of the due diligence investigation; and

5.2.3 ensure that the Seller, its officers, employees, agents, auditors and advisers answer questions from the Purchaser's team and provide all information and documents that may be required by the Purchaser's Team, in both instances within 48 hours of request.

5.3 The Purchaser undertakes to keep all information disclosed to it for the purposes of the due diligence investigation strictly confidential and undertakes not to use such information or disclose any such information to any person, other than the Purchaser's Team who are required to consider and evaluate it. This undertaking does not apply to any information which is not confidential or is public knowledge or which is or falls into the public domain through no fault of the Purchaser.

6. TRANSFER OF THE PROPERTY

6.1 The Property must be registered in the name of the Purchaser within a reasonable time after the Effective Date and:

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6.1.1 the Parties must ensure that their tax affairs are up to date as required by SARS to facilitate prompt issue by SARS of the transfer duty receipt or transfer duty exemption receipt (as the case may be) required for the purposes of effecting registration of transfer;

6.1.2 the Seller must do everything required to enable the Municipality to promptly issue a rates clearance certificate for the Property including but not limited to paying all rates and taxes (including all arrear rates and taxes) as are payable to the Municipality to procure the issue of such rates clearance certificate; and

6.1.3 the Seller must do everything required to enable the Association to promptly issue a clearance certificate for the Property including but not limited to paying all levies (including all arrear levies) as are payable to the Association to procure the issue of such clearance certificate.

6.2 Each Party must, within 7 Days after being called upon to do so by the Conveyancers, sign all documents required to be signed and furnish all documents required to be furnished by that Party to enable transfer of the Property to be given to the Purchaser. The Seller acknowledges and agrees that it shall be obliged to procure that a Notarial Deed is concluded between itself and Tongaat Hulett in terms of which the Restrictive Condition shall be deleted and (ii) such notarial deed is registered simultaneously with registration of transfer of the Property into the name of the Purchaser such that the Property is transferred by the Seller to the Purchaser free of the Restrictive Condition.

7. OCCUPATION AND RISK

7.1 The Seller agrees from the Signature Date to grant the Purchaser and its agents reasonable access to the Property by pre-arrangement with the Seller, at all reasonable times, for purposes of investigation, survey, soil testing, environmental and planning investigations, and any other investigations which the Purchaser may in its sole discretion deem necessary.

7.2 On the Transfer Date the Seller must give the Purchaser vacant occupation of the Property.

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7.3 With effect from the Transfer Date:

7.3.1 all the benefit and risk of ownership of the Property will pass to the Purchaser;

7.3.2 the Purchaser is liable for all rates, taxes and other charges levied on the Property;

7.3.3 the Purchaser is liable for all levies to the Association.

8. **PURCHASER'S ACKNOWLEDGMENTS AND UNDERTAKINGS**

8.1 The Purchaser:

8.1.1 acknowledges that it is aware of the intended future development of the Town Centre by Tongaat Hulett and that such development is intended to involve the establishment of high quality business and commercial premises and residential dwellings on various portions of the Town Centre and so designed as to facilitate an aesthetic and harmonious blending with the environment;

8.1.2 undertakes that it will not, without reasonable grounds for doing so:

8.1.2.1 interfere with any such proposed development; nor

8.1.2.2 lodge any objection with any competent authority in respect of any such development;

8.1.3 agrees that it will not, without reasonable grounds for doing so, object to any application made by or on behalf of Tongaat Hulett, its nominee or agent for special usage consent, licences for shopping, commercial or filling station rights, rezoning, removal of conditions of title under the Removal of Restrictive Conditions Act or by way of any application to Court or to any local or other competent authority in respect of any property within the Town Centre;

8.1.4 specifically acknowledges that it is aware that owners of land surrounding the Property will be erecting buildings or other structures on such surrounding land which may block or otherwise interfere with

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the views from the Property and the Purchaser agrees that it shall have no right, without reasonable cause, to object to the construction of any building or other structure on land in the Town Centre on the basis that such building or other structure blocks or otherwise interferes with the views from the Property, nor will it have any claim for any alleged diminution in the value of the Property arising out of any interference with the views from the Property by reason of the construction of any such building or structure where it has been afforded an opportunity to object thereto and has not, on reasonable grounds, objected thereto;

8.1.5 acknowledges that no buildings or alterations or extension to any existing buildings or any other structures may be erected on the Property other than in accordance with plans approved by the Association acting through the Design Review Committee and the Purchaser agrees that it will have no claim whatsoever, arising out of whatever cause, against the Association, any members of the Design Review Committee or Tongaat Hulett or the Seller for any loss suffered by reason of the Design Review Committee refusing to approve or delay the approval of any plans submitted by the Purchaser save where the Purchaser can prove mala fides on the part of the Design Review Committee or where the decision was not made in accordance with the Association's Memorandum of Incorporation as read with the Development Manual and the Architectural Controls;

9. COSTS

9.1 The Purchaser is liable for, and must on receipt of an account from the Conveyancers pay:

9.1.1 the legal costs of and incidental to the transfer of the Property (levied at 50% of the prescribed tariff fee) other than those specified in clause 9.2;

9.1.2 VAT on the Purchase Price, if any;

9.1.3 Transfer duty, if there is no VAT on the Purchase Price; and

9.1.4 VAT payable on the costs payable by the Purchaser in terms of this clause 9.1.

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9.2 Any costs in connection with the cancellation of existing bonds and of any other rights which require to be cancelled to enable the Property to be transferred to the Purchaser, the amendment or replacement of the Seller's title deed or the withdrawal of judicial attachments, interdicts, caveats or other bars to transfer must be paid by the Seller.

9.3 Each Party is liable for its own legal costs of and incidental to the negotiation, drafting, settlement and signature of this Agreement.

10. LEVIES TO ASSOCIATION

10.1 From the Transfer Date, the Purchaser shall be responsible to pay a monthly levy to the Association as contemplated in the Memorandum of Incorporation of the Association.

10.2 The monthly levy payable to the Association shall be calculated in accordance with the provisions of the Memorandum of Incorporation of the Association.

11. MEMBERSHIP OF THE UMHLANGA RIDGE TOWN CENTRE MANAGEMENT ASSOCIATION NPC

11.1 The Purchaser acknowledges that it shall be obliged to become and remain a Member of the Association from the Transfer Date and the Purchaser undertakes to comply in every respect with the Association's Memorandum of Incorporation and the rules made in terms thereof at all time, and to ensure that any person who comes upon the Property, or the Town Centre by virtue of the Purchaser's rights thereto, does likewise.

12. RULES OF THE ASSOCIATION

12.1 The Purchaser acknowledges that the Directors have the power to make rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Town Centre, for the purposes of giving proper effect to the provisions of the Memorandum of Incorporation of the Association and for any other purpose, which powers shall include the right to impose

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reasonable financial penalties to be paid by those members who fail to comply with the provisions of the Memorandum of Incorporation or the Rules.

12.2 The Purchaser acknowledges that, subject to the provisions of this Agreement, the Memorandum of Incorporation and the Development Manual, the Directors shall be entitled at all times to lay down rules in regard to -

12.2.1 the preservation of the natural environment;

12.2.2 vegetation and flora and fauna in the Town Centre;

12.2.3 the placing of movable objects upon or outside the buildings included in the Town Centre, including the power to remove any such objects;

12.2.4 the storing of flammable and other harmful substances;

12.2.5 the conduct of any persons within the Town Centre and the prevention of nuisance of any nature to any owner of immovable property in the Town Centre;

12.2.6 the use of land within the Town Centre having regard to the intended retail, commercial and mixed use of the Town Centre, (including but in no way limited to, the level of noise emanating from the use of the property and the parking and traffic implications of same);

12.2.7 the use of roads, pathways and open spaces;

12.2.8 the imposition of fines and other penalties to be paid by Members of the Association;

12.2.9 the management, administration and control of the common areas and open spaces;

12.2.10 the Design Guidelines for the erection of all buildings and other structures, including service connections to buildings;

12.2.11 the Design Guidelines for the establishment, installation and maintenance of gardens, both public and private;

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12.2.12 the use by owners and their tenants of buildings and other structures and the upkeep, aesthetics and maintenance of such buildings;

12.2.13 the use of adjoining sidewalks, road frontages and parking areas;

12.2.14 security; and

12.2.15 generally in regard to any other matter which the Directors of the Association from time to time consider appropriate and in the best interests of its Members, and the Purchaser undertakes and shall be obliged, with effect from the Transfer Date, to abide by such rules as if it was the owner of the Property and to ensure that all tenants, nominees, invitees and other persons who occupy or enter upon the Property and its surrounds by virtue of the Purchaser's rights thereto, do likewise.

12.3 The Purchaser shall be obliged to bring the Rules to the attention of any tenant prior to such tenant taking possession of the Property or any portion thereof.

13. MUNICIPAL SERVICES

The Purchaser acknowledges that should the Municipality or any other service provider not have the means, or be unwilling, or agree to delegate the obligation to the Association, to maintain or provide municipal services within the Town Centre, the Association may, if the Association in its sole discretion deems it appropriate, take over the responsibility for providing and maintaining such services and/or enhanced services.

14. AGENT'S COMMISSION

No agents commission is due by either Party on this transaction.

15. WARRANTIES

15.1 The Seller warrants with regards to the Property that:

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15.1.1 the Property is beneficially owned by the Seller which will be able to give free and unencumbered title thereof to the Purchaser in accordance with the provisions of the Agreement;

15.1.2 no person has or, on the Transfer Date, will have any rights of acquisition (including options, rights of pre-emption or rights of first refusal) in respect of the Property nor any right to encumber the Property;

15.1.3 no legal action has been instituted against the Seller and the Seller has no knowledge of any contemplated legal action in terms whereof the Property may be attached and the transfer thereof may be interdicted;

15.1.4 the Property is not and, on the Transfer Date, will not be subject to any leases or other rights of occupation in favour of any person;

15.1.5 no part of the Property is occupied by any illegal occupant;

15.1.6 the Property is not contaminated and/or polluted arising from any activity conducted on or about the Property by the Seller and/or any of its predecessors in title and/or their respective invitees or otherwise howsoever and the Purchaser will not incur any liability, obligation or penalty of whatever nature in terms of the National Environmental Management Act 1998 and/or any other law relating to the maintenance and/or protection of the natural environment by virtue of its ownership of the Property;

15.1.7 the Property is not and, on the Transfer Date, will not be subject to any unregistered servitudes or other unregistered real rights;

15.1.8 the Bulk attributable to the Property is 6 471 square metres;

15.1.9 to the knowledge of the Seller, the Property is not land in respect of which any person may make a claim (or has made a claim which is unresolved) as envisaged in the Restitution of Land Rights Act, No. 22 of 1994 (as amended) or any other similar claims;

15.1.10 there is no proposal to amend the zoning of the Property.

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15.2 For the purposes hereof, “knowledge” includes all matters in respect of which the Seller has actual knowledge or could, through making reasonable enquires in this regard, have acquired actual knowledge. Furthermore, a matter shall be regarded as material if its disclosure prior to the Signature Date would have caused the Purchaser, acting reasonably, not to have entered into the Agreement either at all or on the terms and conditions set out in the Agreement. The Parties record and agree that a breach by the Seller of the warranty contained in clause 15.1.2 shall be a material breach of this Agreement.

15.3 The warranties provided herein shall be given as at the Signature Date and the Transfer Date (save unless expressly stated or where clearly inappropriate).

16. **NOMINATION OF NEW PURCHASER**

16.1 The Purchaser shall be entitled, no later than 7 Days from the Effective Date, to nominate a third party as purchaser, in whole or in part, under this Agreement in its place and stead ("the Second Purchaser") in which event the Seller hereby agrees that this sale to the Purchaser shall be cancelled with effect from the date of signature of a new sale agreement between the Seller, on the one part, and the Second Purchaser and (where the Purchaser has nominated a third party to assume its obligations in part) the Purchaser, on the other part, on the same terms and conditions, mutatis mutandis, as set out in this Agreement save that-

16.1.1 the purchaser shall be defined as the person who is the Second Purchaser and (where the Purchaser has nominated a third party to assume its obligations in part) the Purchaser;

16.1.2 any cancellation and new sale is subject to the condition that:

16.1.2.1 the second Purchaser must be in existence on the date of the new sale;

16.1.2.2 there are no suspensive conditions in the new sale.

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16.2 The Parties undertake to forthwith do all things within their respective powers to ensure the signature of the new sale agreement occurs within 7 Days of date of acceptance of the nomination by the Second Purchaser.

16.3 It is recorded that:

16.3.1 no consideration shall be payable to any person in respect of the cancellation of this Agreement;

16.3.2 the Seller shall not receive any amounts from the Purchaser (whether in respect of the purchase price payable under this Agreement or otherwise), which will require to be refunded as a result of the cancellation of this Agreement.

17. FICA AND POCA

17.1 The Purchaser acknowledges that:

17.1.1 the Conveyancers are designated as an "accountable institution" in terms of FICA;

17.1.2 certain obligations are placed on the Conveyancers in terms of FICA and the POCA and regulations promulgated in terms thereof; and

17.1.3 the Conveyancers will not invest and administer any deposits or any other monies paid by the Purchaser in terms of this Agreement unless the Purchaser has provided the Conveyancers with the documents that they require in terms of FICA and signed an authority to invest.

17.2 The Purchaser undertakes to comply with all requirements of and supply all information and documentation required by the Conveyancers to enable the Conveyancers to fulfil their obligations in terms of FICA and POCA and the regulations thereunder.

18. MUTUAL WARRANTIES AND REPRESENTATIONS

Each Party hereby represents and warrants to the other that:

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18.1 it has the requisite power to enter into this Agreement and to exercise its rights and perform its obligations hereunder;

18.2 all authorities or other actions required to authorise its execution of this Agreement and its performance of its obligations hereunder have been duly taken;

18.3 the execution of this Agreement and its exercise of its rights and performance of its obligations hereunder do not constitute and will not, to the best of its knowledge and belief, result in any breach of any agreement, law or treaty;

18.4 this Agreement is executed by its duly authorised representative;

18.5 all acts, conditions and other things required to be done, fulfilled and performed in order:

18.5.1 to enable it lawfully to enter into, exercise its rights under and perform its obligations expressed to be assumed by it in this Agreement;

18.5.2 to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid and binding; and

18.5.3 to make this Agreement admissible in evidence in South Africa,

have been done, fulfilled and performed.

19. BREACH

19.1 If either Party breaches any provision of this Agreement and remains in breach for 14 days after receipt of written notice by such Party requiring that Party to rectify that breach, the other Party shall be entitled at that Party's option:

19.1.1 to sue for the immediate specific performance of any or all the defaulting Party's obligations under this Agreement whether or not any such obligation is then due; or

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19.1.2 (either as an alternative to a claim for specific performance or upon the abandonment of such a claim) to cancel this Agreement. Written notice of such cancellation shall be given to the defaulting Party and the cancellation shall take effect on the giving of such notice.

19.2 In the event of either Party cancelling this Agreement in terms of the preceding sub-clause, the aggrieved Party shall be entitled to claim damages suffered related to such cancellation.

19.3 The Parties' remedies in terms of this clause are without prejudice to any other remedies to which the Parties may be entitled in law.

19.4 The Parties acknowledge and agree that, in the event of registration of transfer of the Property into the name of the Purchaser being delayed by virtue of a third party (i) laying claim to the Property and/or (ii) claiming that the Seller has undertaken to sell the Property to such third party and/or (iii) seeking to prevent and/or interdict the transfer to the Purchaser by virtue of any alleged act or omission on the part of the Seller, the Purchaser shall be entitled to:

19.4.1 withdraw any guarantee issued on its behalf to secure payment of the Purchaser Price and shall only be obliged to again provide the Seller with a guarantee to secure payment of the Purchase Price once it has been provided with such documentary evidence as the Purchaser may reasonably require that such third party claim will no longer delay transfer; or

19.4.2 proceed in accordance with clause 19.1 (for which purposes the Seller shall be deemed to be in breach of its obligations in terms of this Agreement).

20. NOTICES AND ADDRESSES FOR SERVICE

20.1 Unless otherwise specified any notice or communication in terms of this Agreement:

20.1.1 must be in writing to be effective;

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20.1.2 must be sent by hand, registered post or e-mail to the addresses below, which physical addresses the Parties select as their respective domicilium citandi et executandi:

20.2 Unless otherwise specified any notice or communication in terms of this Agreement:

20.2.1 must be in writing to be effective;

20.2.2 must be sent by hand, registered post or e-mail to the addresses/ numbers below, which physical addresses the Parties select as their respective domicilium citandi et executandi:

the Seller	2nd Floor, West Tower, Maude Street, Nelson Mandela Square, Sandton. 2196. RSA. PO Box 785553, Sandton. 2146. E-mail: mbuso.dlamini@palacegroup.co.za
the Purchaser	3 Gwen Lane, Sandton, Johannesburg, 2000. PO Box 786130, Sandton, 2146. Email: lmeyer@eris.co.za

20.3 A Party may change its address to any other address within South Africa. Such change will only take effect upon receipt or deemed receipt of such notice by the other Party.

20.4 Any notice or communication shall:

20.4.1 if delivered by hand during business hours to the person apparently in charge of the Property selected by the addressee for the delivery of notices, be deemed to have been received on the date of delivery;

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20.4.2 if sent by registered post to the selected address, be deemed to have been received 6 days after posting; and

20.4.3 if sent by e-mail to the selected e-mail address of the addressee, be deemed to have been received on the first business day following the date on which it has been transmitted from the information system under the control of the sender.

20.5 Any written notice or communication which has actually been received by a Party shall be regarded as sufficient notice even if it has not been sent in the manner or to the address number provided for above.

21. MISCELLANEOUS LEGAL PROVISIONS

21.1 This is the whole agreement between the Parties containing all of the express provisions agreed on by the Parties with regard to the subject matter hereof.

21.2 No Party may rely on any representation which allegedly induced that Party to enter into this agreement, unless the representation is recorded herein.

21.3 No agreement varying, adding to, deleting from or cancelling this agreement (including this clause) and no waiver of any right under this agreement shall be effective unless in writing and signed by or on behalf of the Parties.

21.4 No relaxation by a Party of any of its rights in terms of this agreement at any time shall prejudice or be a waiver of its rights (unless it is a signed written waiver) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.

21.5 No Party may cede, delegate, assign or sub-contract any of its rights or obligations in terms of this Agreement without the prior written consent of the other Parties.

21.6 This Agreement may be signed by the Parties in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement.

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21.7 Since the provisions of this Agreement have been settled by negotiation and each Party has been free to secure independent legal advice, the rule of construction that clauses must be interpreted against the Party principally responsible for drafting does not apply.

21.8 Where an expression has been defined and such definition contains a provision conferring a right or imposing an obligation on any Party, then notwithstanding that it is contained only in a definition, effect must be given to that provision as if it were a substantive provision contained in the body of this Agreement.

21.9 Words or expressions defined in any particular clause in the body of this agreement must bear the meaning so assigned to it throughout this Agreement unless the context indicates otherwise.

21.10 The *eiusdem generis* rule does not apply so that whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "including" and specific examples, such examples must not be construed so as to limit the general ambit of the provision concerned.

21.11 A reference to any legislation (including statutes, ordinances, regulations and by-laws) must be construed as a reference to that legislation as at the date of signature of this agreement and as may be amended or re-enacted or substituted from time to time.

21.12 A reference to any statutory body or court or to any association for the purposes appointing an expert or arbitrator must be construed as a reference to that statutory body or court or association as at the date of signature and any successor.

21.13 A reference to any legal principle, doctrine or process under South African law includes a reference to the equivalent or analogous principle, doctrine or process in any other jurisdiction in which the provisions of this agreement may apply or to the laws of which a Party may be or become subject.

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21.14 The expiration or termination of this Agreement does not affect such of its provisions which of necessity must continue to apply after such expiration or termination.

21.15 Headings of clauses are inserted for the purpose of convenience only and must be ignored in the interpretation of this Agreement.

21.16 Unless inconsistent with the context, words signifying any one gender will include the others, words signifying the singular will include the plural and vice versa and words signifying natural persons will include artificial persons and vice versa.

21.17 Any reference to an amount in this Agreement means that amount is exclusive of VAT unless specified otherwise.

21.18 The various documents forming part of this Agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the Agreement will prevail.

21.19 Each Party must bear its own legal costs incidental to the negotiation, preparation and implementation of this Agreement.

21.20 Any costs incurred by a Party arising out of the breach by any other Party of the any of the provisions of this Agreement must be borne by the Party in breach on an attorney and own client scale.

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SIGNED at _____ this _____ day of _____ 2016

For **PAPATEKWE DEVELOPMENTS PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this Agreement on its behalf

Full names ……

Designation ……..

SIGNED at _____ this _____ day of _____ 2016

For **PEG HR SOLUTIONS PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this Agreement on its behalf

Full names ……

Designation ……..

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Mbuso

From: Mbuso Dlamini <mbuso@icon.co.za>
Sent: Wednesday, 21 September 2016 11:18
To: 'du Plessis, Jean'
Cc: 'pes@palacegroup.co.za'
Subject: RE: The development of erven2579, 2580, 2582 and 2583 Umhlanga Rocks
Attachments: New Town Centre Erf 2579 - Vacant Land Purchase - Final 21 09 2016 LM COMMENTS.docx

Hi Jean

Attached is the latest proposed agreement from Eris. Lance sent it this morning.

I will wait for your feedback, with respect to way forward, as discussed at yesterday's meeting at your offices. You advised that JT Ross will revert to you yesterday and definitely before the end of the week. May we meet on Friday this week or first thing on Monday to finalise way forward because we have to finalise a presentation to Tongaat scheduled for 30th September 2016 as explained at the last few meetings.

Kind Regards
Mbuso

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: Tuesday, September 20, 2016 4:11 PM
To: 'du Plessis, Jean' <Jean.duPlessis@rmb.co.za>
Cc: 'pes@palacegroup.co.za' <pes@palacegroup.co.za>
Subject: The development of erven2579, 2580, 2582 and 2583 Umhlanga Rocks

Hi Jean

We and the architects for the site have had a look at a few options; and we would like to put forward the following options :

1. Option 1 :
    a. Allocate erf 2579 (6,308m^2 bulk) to JT Ross plus erf 2582 (8,213m^2 bulk) if your sense is that G5 is not serious. This will work because the existing call centre is directly opposite erf 2579 (as shown in a block in the attached);
    b. Allocate 2580 (6,471m^2) to Eris because they have reduced the time drastically and they are committing to run the DD and Board concurrently and will complete these two activities within 30 days and put a guarantee on the table. They do not have to look for finance;
    c. Allocate erf 2583 (8,170m^2 bulk) to G5 for phase 1 residential housing or move the hotel here and reduce the residential housing by a few residential housing units. We want to discuss this option with the hotel operator on Thursday, but the hotel is not critical, G5 will just do the residential housing phase 1 and maybe combine phases 1 and 2 (erf 2583 and 2522).
2. Option 2 :
    a. Allocate erf 2579 and 2522 (9,928m^2 bulk) or part thatof to JT Ross. This would still work as above because the link to the existing call centre will still be there through erf 2579;
    b. Allocate erf 2580 to Eris as per b above;
    c. Allocate erven 2582 and 2583 to G5 for residential housing (if you feel that G5 is serious)
3. Option 3 :

a. Allocate erf 2579,2582 (if you feel that G5 will not do the housing) and part of erf 2522 to JT Ross;
b. Allocate erf 2580 to Eris as per above;
c. Allocate erf 2583 to G5.

Kindly advise which of these would be happy to go forward with. Eris would like us to sign ASAP. They called me again after our meeting.

We would be happy with whichever options you would be happy with.

We await your further instructions.

Kind Regards
Mbuso

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: Monday, September 19, 2016 4:06 PM
To: 'du Plessis, Jean' <Jean.duPlessis@rmb.co.za>
Subject: RE: Parkside - Erf 2580

Hi Jean

I have accepted the meeting request for 10h00 to 11h00 tomorrow at your offices.

Eris expects to sign the sale agreement at 17h00 today. What should I do? Should sign it or not?

Kindly and urgently advise.

Kind Regards
Mbuso

From: du Plessis, Jean [mailto:Jean.duPlessis@rmb.co.za]
Sent: Monday, September 19, 2016 2:59 PM
To: mbuso@icon.co.za
Subject: RE: Parkside - Erf 2580

HI Mbuso

Can we meet tomorrow at 10 at RMB to discuss the way forward?

Kind Regards

JÉAN DU PLESSIS
Credit Management

Rand Merchant Bank
Telephone +27 11 2824125
Switchboard +27 11 2828000
Facsimile +27 11 3843143
Mobile +27 824628345

www.rmb.co.za

(Rand Merchant Bank, a division of FirstRand Bank Limited, is an Authorised Financial Services Provider)

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: 19 September 2016 01:46 PM
To: du Plessis, Jean
Subject: RE: Parkside - Erf 2580

Hi Jean

Attached are :

1. The signed sale agreement;
2. The first addendum;
3. The second addendum; and
4. The acceptance of DD letter of this morning.

Hope to hear from you ASAP.

Regards
Mbuso

From: du Plessis, Jean [mailto:Jean.duPlessis@rmb.co.za]
Sent: Monday, September 19, 2016 1:33 PM
To: mbuso@icon.co.za
Subject: RE: Parkside - Erf 2580

HI Mbuso

Please forward us the Hodari sale agreement (and addenda) in order for us to clarify Hodari's current position.

Kind Regards

JÉAN DU PLESSIS
Credit Management

Rand Merchant Bank
Telephone +27 11 2824125
Switchboard +27 11 2828000
Facsimile +27 11 3843143
Mobile +27 824628345

www.rmb.co.za

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From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: 19 September 2016 12:42 PM
To: du Plessis, Jean
Subject: FW: Parkside - Erf 2580

Dear Mr Du Plessis

Attached is the sale agreement which Eris sent me this morning where they have added the condition that they are buying the property should the hotel deal not go through by the 23rd September 2016.

How do we move forward now that Hodari has come back with the letter I sent you in the previous email; and Eris is wanting to buy erf 2580 as per the attached sale agreement?

Kindly call me as soon as you have had a chance to go through the Hodari and the Eris documets.

Eris wants to sign before close of business day today.

Kind Regards
Mbuso

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http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

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SALE OF IMMOVABLE PROPERTY AGREEMENT

between

PEG HR SOLUTIONS PROPRIETARY LIMITED

and

PAPATEKWE DEVELOPMENTS PROPRIETARY LIMITED

IN RESPECT OF ERF 2580, UMHLANGA ROCKS DURBAN

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SALE OF IMMOVABLE PROPERTY AGREEMENT

Between

PEG HR SOLUTIONS PROPRIETARY LIMITED
Registration number 2003/025572/07

("the Seller")

and

PAPATEKWE DEVELOPMENTS PROPRIETARY LIMITED
Registration number 2016/388505/07
("the Purchaser")

1. **INTERPRETATION**

1.1 In this Agreement, unless the context otherwise indicates:

1.1.1 "**Agreement**" means this Sale of Immovable Property Agreement;

1.1.1 **"Association"** means Umhlanga Ridge Town Centre Management Association, NPC, Registration No. 2001/000648/08;

1.1.2 **"Bulk"** means bulk as contemplated in the Town Planning Scheme applicable to the Property;

1.1.3 "**Conveyancers**" means Webber Wentzel, 90 Rivonia Road, Sandton, Johannesburg, 2196, the conveyancers nominated by the Seller to effect registration of transfer of the Property into the name of the Purchaser;

1.1.4 **"Design Review Committee"** means the Design Review Committee of the Association;

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1.1.5 "**Development Manual**" means the Umhlanga Ridge New Town Centre Development Manual Volume 2 Version 1.8 prepared by GAPP Architects and Urban Designers for the development of Mixed – Use Sites dated July 2008 and as amended and added to from time to time;

1.1.6 "**Directors**" means the directors of the Association;

1.1.7 "**Due Diligence Period**" means a period of 30 days from the Signature Date;

1.1.8 "**Effective Date**" means the date on which all of the Suspensive Conditions has been fulfilled or waived;

1.1.9 "**Municipality**" means the eThekwini Municipality;

1.1.10 "**Parties**" means, collectively, the Seller and the Purchaser, and "**Party**" shall mean any one of them, as the context may indicate;

1.1.11 "**Property**" means the vacant immovable property described as Erf 2580 Umhlanga Rocks, Registration Division FU, Province of KwaZulu-Natal, in extent 4 175 square metres, as reflected on SG 459/2007, with a Bulk of 6 471 square meters, held by the Seller under Deed of Transfer No 058950/07;

1.1.12 "**Purchase Price**" means the purchase price payable by the Purchaser to the Seller in respect of the Property being the amount referred to in clause 4.1;

1.1.13 "**Purchaser**" means Papatekwe Developments Proprietary Limited (Registration Number: 2016/388505/07), a company duly incorporated in terms of the laws of the Republic of South Africa;

1.1.14 "**SARS**" means the South African Revenue Service;

1.1.15 "**Seller**" means Peg HR Solutions Proprietary Limited (Registration Number: 2003/025572/07), a company duly incorporated in terms of the laws of the Republic of South Africa;

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1.1.16 "**Signature Date**" means the date on which this Agreement is signed by the last Party who signs;

1.1.17 "**Suspensive Conditions**" means the suspensive conditions referred to in clause 3.1;

1.1.18 "**Tongaat Hulett**" means Tongaat Hulett Developments Proprietary Limited, Registration No. 1981/012378/07;

1.1.19 "**Town Centre**" means "the Town Centre" as defined in the Association's Memorandum of Incorporation;

1.1.20 "**Transfer Date**" means the date of registration of transfer of the Property from the Seller to the Purchaser;

1.1.21 "**VAT**" means value-added tax in terms of the VAT Act; and

1.1.22 "**Writing**" (or words of similar meaning) means legible writing and in English and excludes any form of electronic communication contemplated in the Electronic Communications and Transactions Act.

1.2 Any reference to -

1.2.1 the singular includes the plural and *vice versa*;

1.2.2 natural Persons include juristic Persons and *vice versa*;

1.2.3 any one sex or gender includes the other sexes or genders, as the case may be;

1.2.4 any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment or legislative measure of government (Including local or provincial government) statutory or regulatory body which has the force of Law means the relevant enactment or legislative measure as at the Signature Date and as amended or re-enacted from time to time;

1.2.5 a Party includes a reference to that Party's estate, successors in title and assigns allowed at Law; and

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1.2.6 "Business Day" means any Day other than a Saturday, Sunday or South African Public Holiday;

1.2.7 "Calendar Month" means one of the 12 Months of the Year from the 1st to the last Day of such Month;

1.2.8 "Day" means a calendar Day;

1.2.9 "Month" means a Month calculated from a particular Day in one Month to the Day before the Day numerically corresponding to it in the following Month;

1.2.10 "Year" means a year calculated from a particular Day in one year to the Day before the Day numerically corresponding to it in the following year;

1.3 Whenever any number of Days is prescribed, it excludes the first and includes the last Day unless the last Day falls on a Saturday, Sunday or South African public holiday in which case the last Day will be the next succeeding business Day.

1.4 The words “shall” and “will” and “must” used in the context of any obligation or restriction imposed on a Party have the same meaning.

1.5 The clause headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation.

1.6 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.7 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to that provision as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.

1.8 If any period is referred to in this Agreement by way of a reference to a number of Days or weeks or Months or other intervals, the period shall be reckoned exclusively of the 1st Day and inclusively of the last Day of the

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relevant interval, unless the last Day falls on a Day which is not a business Day, in which case the last Day shall be the next succeeding business Day.

1.9 If the due date for performance of any obligation in terms of this Agreement is a Day which is not a Business Day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately succeeding Business Day.

1.10 If any obligation or act is required to be performed on a particular Day it shall be performed (unless otherwise stipulated) by 16h00 (local time at the place where the obligation or act is required to be performed) on that Day.

1.11 This Agreement shall be governed, interpreted and enforced in accordance with the Laws of the Republic of South Africa from time to time.

1.12 No provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement.

1.13 The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply.

1.14 The terms defined in this Agreement shall bear the same meanings in any annexures hereto.

2. THE SALE

The Seller sells the Property to the Purchaser (which purchases the Property from the Seller) for the Purchase Price and on the terms and conditions set out in this Agreement.

3. SUSPENSIVE CONDITIONS

3.1 Except for clauses 3, 5, 7.1 and 19 to 21 (and any other provision necessary to give effect to those clauses), all of which shall be of full force and effect and operative from the Signature Date, the operation of this Agreement shall be subject to the suspensive conditions that by no later than:

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3.1.1 30 days after the Signature Date, the Purchaser provides the Seller with Written confirmation that it is satisfied with the results of the due diligence investigation which it will be conducting in terms of clause 5, in respect of the Property;

3.1.2 30 days after the Signature Date, the Purchaser provides the Seller with Written confirmation that its board of directors has approved the conclusion of this Agreement and the implementation of the transactions contemplated herein;

3.1.3 the 26 September 2016, the Seller has not concluded an unconditional sale agreement for the Property with a 3rd party Developer for the development of a Hotel. For purposes of clarity it is hereby confirmed that this suspensive condition clause shall be deemed to be fulfilled if by the close of business on the 26 September 2016, the Seller has not provided the Purchaser with a copy of the signed unconditional sale agreement concluded between the Seller and 3rd party Hotel Developer;

3.1.4 60 days after the Signature Date, the Seller has provided the Purchaser with confirmation that Tongaat Hulett has consented in Writing to (i) the removal of the restrictive condition imposed in its favour in paragraph G (a) in Deed of Transfer No T 58951/2007 (the "**Restrictive Condition**") simultaneously with registration of transfer of the Property into the name of the Purchaser and (ii) the conclusion of a notarial deed to give effect thereto, Or the Purchaser has reached agreement in writing with Tongaat Hullett with respect to the application of the above restriction condition after transfer of the Property to the Purchaser pursuant to this Agreement.

3.2 The due date/s for the fulfilment of any one or more of the Suspensive Conditions may be extended by the Parties by agreement in Writing between the Parties.

3.3 The Suspensive Conditions contained in clauses 3.1.1, 3.1.2 and 3.1.4 are in favour of the Purchaser and may be waived by the Purchaser in writing prior to the date for fulfilment of the conditions (or any agreed extended date).

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3.4 If the Suspensive Conditions remain unfulfilled and the fulfilment thereof is not waived by the Purchaser by the due date from the fulfilment thereof (or any agreed extended date), then the Agreement will be of no force and effect and:

3.4.1 to the extent that this Agreement may have been partially implemented, the Parties must as far as possible be restored to the positions they were in prior to the Signature Date;

3.4.2 no Party will have any claim against the other arising out of or in connection with this Agreement.

4. PURCHASE PRICE AND PAYMENT

4.1 The Purchase Price for the Property is R25, 884, 000 (Twenty Five Million Eight Hundred and Eighty Four Thousand Rand) excluding VAT, if any, payable to the Seller on the Transfer Date. This figure was arrived at by multiplying the Bulk of 6,471 metres squared attributable to the Property by R4,000 per metre squared.

4.2 Payment of the Purchase Price together with VAT thereon, if applicable must be secured by the Purchaser lodging a bank guarantee for the full Purchase Price, plus VAT, if any, with the Conveyancers within 15 Days of the Effective Date.

4.3 The guarantee referred to in clause 4.2 shall be from a South African bank and on terms and conditions reasonably acceptable to the Seller, in favour of the Seller or the Seller's nominee, drawn and payable:

4.3.1 on a South African bank;

4.3.2 on cancellation of any existing mortgage bond/s over the Property;

4.3.3 on registration of transfer of the Property by the Seller into the name of the Purchaser; and

4.3.4 on registration of a new mortgage bond in favour of the bank that the Purchaser procures mortgage loan finance (to the extent required by the Purchaser).

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4.4 The Purchaser shall (to the extent required by the Purchaser) be registering a mortgage bond over the Property simultaneously with transfer of the Property to the Purchaser.

4.5 All payments in terms of or arising out of this Agreement must be made without demand and free of all charges to the Party entitled to payment.

5. DUE DILIGENCE

5.1 During the Due Diligence Period, the Purchaser may undertake a due diligence investigation into the Property.

5.2 The Seller undertakes throughout the Due Diligence Period to:

5.2.1 co-operate with the Purchaser, its authorised representatives, employees, attorneys and auditors (together "the Purchaser's Team");

5.2.2 make available and, where required, provide copies to the Purchaser's team of all documents, books, records, electronic data and information requested by the Purchaser for the purpose of the due diligence investigation; and

5.2.3 ensure that the Seller, its officers, employees, agents, auditors and advisers answer questions from the Purchaser's team and provide all information and documents that may be required by the Purchaser's Team, in both instances within 48 hours of request.

5.3 The Purchaser undertakes to keep all information disclosed to it for the purposes of the due diligence investigation strictly confidential and undertakes not to use such information or disclose any such information to any person, other than the Purchaser's Team who are required to consider and evaluate it. This undertaking does not apply to any information which is not confidential or is public knowledge or which is or falls into the public domain through no fault of the Purchaser.

6. TRANSFER OF THE PROPERTY

6.1 The Property must be registered in the name of the Purchaser within a reasonable time after the Effective Date and:

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6.1.1 the Parties must ensure that their tax affairs are up to date as required by SARS to facilitate prompt issue by SARS of the transfer duty receipt or transfer duty exemption receipt (as the case may be) required for the purposes of effecting registration of transfer;

6.1.2 the Seller must do everything required to enable the Municipality to promptly issue a rates clearance certificate for the Property including but not limited to paying all rates and taxes (including all arrear rates and taxes) as are payable to the Municipality to procure the issue of such rates clearance certificate; and

6.1.3 the Seller must do everything required to enable the Association to promptly issue a clearance certificate for the Property including but not limited to paying all levies (including all arrear levies) as are payable to the Association to procure the issue of such clearance certificate.

6.2 Each Party must, within 7 Days after being called upon to do so by the Conveyancers, sign all documents required to be signed and furnish all documents required to be furnished by that Party to enable transfer of the Property to be given to the Purchaser. The Seller acknowledges and agrees that it shall be obliged to procure that a Notarial Deed is concluded between itself and Tongaat Hulett in terms of which the Restrictive Condition shall be deleted and (ii) such notarial deed is registered simultaneously with registration of transfer of the Property into the name of the Purchaser such that the Property is transferred by the Seller to the Purchaser free of the Restrictive Condition.

7. OCCUPATION AND RISK

7.1 The Seller agrees from the Signature Date to grant the Purchaser and its agents reasonable access to the Property by pre-arrangement with the Seller, at all reasonable times, for purposes of investigation, survey, soil testing, environmental and planning investigations, and any other investigations which the Purchaser may in its sole discretion deem necessary.

7.2 On the Transfer Date the Seller must give the Purchaser vacant occupation of the Property.

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7.3 With effect from the Transfer Date:

7.3.1 all the benefit and risk of ownership of the Property will pass to the Purchaser;

7.3.2 the Purchaser is liable for all rates, taxes and other charges levied on the Property;

7.3.3 the Purchaser is liable for all levies to the Association.

8. **PURCHASER'S ACKNOWLEDGMENTS AND UNDERTAKINGS**

8.1 The Purchaser:

8.1.1 acknowledges that it is aware of the intended future development of the Town Centre by Tongaat Hulett and that such development is intended to involve the establishment of high quality business and commercial premises and residential dwellings on various portions of the Town Centre and so designed as to facilitate an aesthetic and harmonious blending with the environment;

8.1.2 undertakes that it will not, without reasonable grounds for doing so:

8.1.2.1 interfere with any such proposed development; nor

8.1.2.2 lodge any objection with any competent authority in respect of any such development;

8.1.3 agrees that it will not, without reasonable grounds for doing so, object to any application made by or on behalf of Tongaat Hulett, its nominee or agent for special usage consent, licences for shopping, commercial or filling station rights, rezoning, removal of conditions of title under the Removal of Restrictive Conditions Act or by way of any application to Court or to any local or other competent authority in respect of any property within the Town Centre;

8.1.4 specifically acknowledges that it is aware that owners of land surrounding the Property will be erecting buildings or other structures on such surrounding land which may block or otherwise interfere with

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the views from the Property and the Purchaser agrees that it shall have no right, without reasonable cause, to object to the construction of any building or other structure on land in the Town Centre on the basis that such building or other structure blocks or otherwise interferes with the views from the Property, nor will it have any claim for any alleged diminution in the value of the Property arising out of any interference with the views from the Property by reason of the construction of any such building or structure where it has been afforded an opportunity to object thereto and has not, on reasonable grounds, objected thereto;

8.1.5 acknowledges that no buildings or alterations or extension to any existing buildings or any other structures may be erected on the Property other than in accordance with plans approved by the Association acting through the Design Review Committee and the Purchaser agrees that it will have no claim whatsoever, arising out of whatever cause, against the Association, any members of the Design Review Committee or Tongaat Hulett or the Seller for any loss suffered by reason of the Design Review Committee refusing to approve or delay the approval of any plans submitted by the Purchaser save where the Purchaser can prove mala fides on the part of the Design Review Committee or where the decision was not made in accordance with the Association's Memorandum of Incorporation as read with the Development Manual and the Architectural Controls;

9. COSTS

9.1 The Purchaser is liable for, and must on receipt of an account from the Conveyancers pay:

9.1.1 the legal costs of and incidental to the transfer of the Property (levied at 50% of the prescribed tariff fee) other than those specified in clause 9.2;

9.1.2 VAT on the Purchase Price, if any;

9.1.3 Transfer duty, if there is no VAT on the Purchase Price; and

9.1.4 VAT payable on the costs payable by the Purchaser in terms of this clause 9.1.

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9.2 Any costs in connection with the cancellation of existing bonds and of any other rights which require to be cancelled to enable the Property to be transferred to the Purchaser, the amendment or replacement of the Seller's title deed or the withdrawal of judicial attachments, interdicts, caveats or other bars to transfer must be paid by the Seller.

9.3 Each Party is liable for its own legal costs of and incidental to the negotiation, drafting, settlement and signature of this Agreement.

10. LEVIES TO ASSOCIATION

10.1 From the Transfer Date, the Purchaser shall be responsible to pay a monthly levy to the Association as contemplated in the Memorandum of Incorporation of the Association.

10.2 The monthly levy payable to the Association shall be calculated in accordance with the provisions of the Memorandum of Incorporation of the Association.

11. MEMBERSHIP OF THE UMHLANGA RIDGE TOWN CENTRE MANAGEMENT ASSOCIATION NPC

11.1 The Purchaser acknowledges that it shall be obliged to become and remain a Member of the Association from the Transfer Date and the Purchaser undertakes to comply in every respect with the Association's Memorandum of Incorporation and the rules made in terms thereof at all time, and to ensure that any person who comes upon the Property, or the Town Centre by virtue of the Purchaser's rights thereto, does likewise.

12. RULES OF THE ASSOCIATION

12.1 The Purchaser acknowledges that the Directors have the power to make rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Town Centre, for the purposes of giving proper effect to the provisions of the Memorandum of Incorporation of the Association and for any other purpose, which powers shall include the right to impose

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reasonable financial penalties to be paid by those members who fail to comply with the provisions of the Memorandum of Incorporation or the Rules.

12.2 The Purchaser acknowledges that, subject to the provisions of this Agreement, the Memorandum of Incorporation and the Development Manual, the Directors shall be entitled at all times to lay down rules in regard to -

12.2.1 the preservation of the natural environment;

12.2.2 vegetation and flora and fauna in the Town Centre;

12.2.3 the placing of movable objects upon or outside the buildings included in the Town Centre, including the power to remove any such objects;

12.2.4 the storing of flammable and other harmful substances;

12.2.5 the conduct of any persons within the Town Centre and the prevention of nuisance of any nature to any owner of immovable property in the Town Centre;

12.2.6 the use of land within the Town Centre having regard to the intended retail, commercial and mixed use of the Town Centre, (including but in no way limited to, the level of noise emanating from the use of the property and the parking and traffic implications of same);

12.2.7 the use of roads, pathways and open spaces;

12.2.8 the imposition of fines and other penalties to be paid by Members of the Association;

12.2.9 the management, administration and control of the common areas and open spaces;

12.2.10 the Design Guidelines for the erection of all buildings and other structures, including service connections to buildings;

12.2.11 the Design Guidelines for the establishment, installation and maintenance of gardens, both public and private;

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12.2.12 the use by owners and their tenants of buildings and other structures and the upkeep, aesthetics and maintenance of such buildings;

12.2.13 the use of adjoining sidewalks, road frontages and parking areas;

12.2.14 security; and

12.2.15 generally in regard to any other matter which the Directors of the Association from time to time consider appropriate and in the best interests of its Members, and the Purchaser undertakes and shall be obliged, with effect from the Transfer Date, to abide by such rules as if it was the owner of the Property and to ensure that all tenants, nominees, invitees and other persons who occupy or enter upon the Property and its surrounds by virtue of the Purchaser's rights thereto, do likewise.

12.3 The Purchaser shall be obliged to bring the Rules to the attention of any tenant prior to such tenant taking possession of the Property or any portion thereof.

13. MUNICIPAL SERVICES

The Purchaser acknowledges that should the Municipality or any other service provider not have the means, or be unwilling, or agree to delegate the obligation to the Association, to maintain or provide municipal services within the Town Centre, the Association may, if the Association in its sole discretion deems it appropriate, take over the responsibility for providing and maintaining such services and/or enhanced services.

14. AGENT'S COMMISSION

No agents commission is due by either Party on this transaction.

15. WARRANTIES

15.1 The Seller warrants with regards to the Property that:

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15.1.1 the Property is beneficially owned by the Seller which will be able to give free and unencumbered title thereof to the Purchaser in accordance with the provisions of the Agreement;

15.1.2 no person has or, on the Transfer Date, will have any rights of acquisition (including options, rights of pre-emption or rights of first refusal) in respect of the Property nor any right to encumber the Property;

15.1.3 no legal action has been instituted against the Seller and the Seller has no knowledge of any contemplated legal action in terms whereof the Property may be attached and the transfer thereof may be interdicted;

15.1.4 the Property is not and, on the Transfer Date, will not be subject to any leases or other rights of occupation in favour of any person;

15.1.5 no part of the Property is occupied by any illegal occupant;

15.1.6 the Property is not contaminated and/or polluted arising from any activity conducted on or about the Property by the Seller and/or any of its predecessors in title and/or their respective invitees or otherwise howsoever and the Purchaser will not incur any liability, obligation or penalty of whatever nature in terms of the National Environmental Management Act 1998 and/or any other law relating to the maintenance and/or protection of the natural environment by virtue of its ownership of the Property;

15.1.7 the Property is not and, on the Transfer Date, will not be subject to any unregistered servitudes or other unregistered real rights;

15.1.8 the Bulk attributable to the Property is 6 471 square metres;

15.1.9 to the knowledge of the Seller, the Property is not land in respect of which any person may make a claim (or has made a claim which is unresolved) as envisaged in the Restitution of Land Rights Act, No. 22 of 1994 (as amended) or any other similar claims;

15.1.10 there is no proposal to amend the zoning of the Property.

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15.2 For the purposes hereof, “knowledge” includes all matters in respect of which the Seller has actual knowledge or could, through making reasonable enquires in this regard, have acquired actual knowledge. Furthermore, a matter shall be regarded as material if its disclosure prior to the Signature Date would have caused the Purchaser, acting reasonably, not to have entered into the Agreement either at all or on the terms and conditions set out in the Agreement. The Parties record and agree that a breach by the Seller of the warranty contained in clause 15.1.2 shall be a material breach of this Agreement.

15.3 The warranties provided herein shall be given as at the Signature Date and the Transfer Date (save unless expressly stated or where clearly inappropriate).

16. **NOMINATION OF NEW PURCHASER**

16.1 The Purchaser shall be entitled, no later than 7 Days from the Effective Date, to nominate a third party as purchaser, in whole or in part, under this Agreement in its place and stead ("the Second Purchaser") in which event the Seller hereby agrees that this sale to the Purchaser shall be cancelled with effect from the date of signature of a new sale agreement between the Seller, on the one part, and the Second Purchaser and (where the Purchaser has nominated a third party to assume its obligations in part) the Purchaser, on the other part, on the same terms and conditions, mutatis mutandis, as set out in this Agreement save that-

16.1.1 the purchaser shall be defined as the person who is the Second Purchaser and (where the Purchaser has nominated a third party to assume its obligations in part) the Purchaser;

16.1.2 any cancellation and new sale is subject to the condition that:

16.1.2.1 the second Purchaser must be in existence on the date of the new sale;

16.1.2.2 there are no suspensive conditions in the new sale.

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16.2 The Parties undertake to forthwith do all things within their respective powers to ensure the signature of the new sale agreement occurs within 7 Days of date of acceptance of the nomination by the Second Purchaser.

16.3 It is recorded that:

16.3.1 no consideration shall be payable to any person in respect of the cancellation of this Agreement;

16.3.2 the Seller shall not receive any amounts from the Purchaser (whether in respect of the purchase price payable under this Agreement or otherwise), which will require to be refunded as a result of the cancellation of this Agreement.

17. FICA AND POCA

17.1 The Purchaser acknowledges that:

17.1.1 the Conveyancers are designated as an "accountable institution" in terms of FICA;

17.1.2 certain obligations are placed on the Conveyancers in terms of FICA and the POCA and regulations promulgated in terms thereof; and

17.1.3 the Conveyancers will not invest and administer any deposits or any other monies paid by the Purchaser in terms of this Agreement unless the Purchaser has provided the Conveyancers with the documents that they require in terms of FICA and signed an authority to invest.

17.2 The Purchaser undertakes to comply with all requirements of and supply all information and documentation required by the Conveyancers to enable the Conveyancers to fulfil their obligations in terms of FICA and POCA and the regulations thereunder.

18. MUTUAL WARRANTIES AND REPRESENTATIONS

Each Party hereby represents and warrants to the other that:

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18.1 it has the requisite power to enter into this Agreement and to exercise its rights and perform its obligations hereunder;

18.2 all authorities or other actions required to authorise its execution of this Agreement and its performance of its obligations hereunder have been duly taken;

18.3 the execution of this Agreement and its exercise of its rights and performance of its obligations hereunder do not constitute and will not, to the best of its knowledge and belief, result in any breach of any agreement, law or treaty;

18.4 this Agreement is executed by its duly authorised representative;

18.5 all acts, conditions and other things required to be done, fulfilled and performed in order:

18.5.1 to enable it lawfully to enter into, exercise its rights under and perform its obligations expressed to be assumed by it in this Agreement;

18.5.2 to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid and binding; and

18.5.3 to make this Agreement admissible in evidence in South Africa,

have been done, fulfilled and performed.

19. BREACH

19.1 If either Party breaches any provision of this Agreement and remains in breach for 14 days after receipt of written notice by such Party requiring that Party to rectify that breach, the other Party shall be entitled at that Party's option:

19.1.1 to sue for the immediate specific performance of any or all the defaulting Party's obligations under this Agreement whether or not any such obligation is then due; or

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19.1.2 (either as an alternative to a claim for specific performance or upon the abandonment of such a claim) to cancel this Agreement. Written notice of such cancellation shall be given to the defaulting Party and the cancellation shall take effect on the giving of such notice.

19.2 In the event of either Party cancelling this Agreement in terms of the preceding sub-clause, the aggrieved Party shall be entitled to claim damages suffered related to such cancellation.

19.3 The Parties' remedies in terms of this clause are without prejudice to any other remedies to which the Parties may be entitled in law.

19.4 The Parties acknowledge and agree that, in the event of registration of transfer of the Property into the name of the Purchaser being delayed by virtue of a third party (i) laying claim to the Property and/or (ii) claiming that the Seller has undertaken to sell the Property to such third party and/or (iii) seeking to prevent and/or interdict the transfer to the Purchaser by virtue of any alleged act or omission on the part of the Seller, the Purchaser shall be entitled to:

19.4.1 withdraw any guarantee issued on its behalf to secure payment of the Purchaser Price and shall only be obliged to again provide the Seller with a guarantee to secure payment of the Purchase Price once it has been provided with such documentary evidence as the Purchaser may reasonably require that such third party claim will no longer delay transfer; or

19.4.2 proceed in accordance with clause 19.1 (for which purposes the Seller shall be deemed to be in breach of its obligations in terms of this Agreement).

20. NOTICES AND ADDRESSES FOR SERVICE

20.1 Unless otherwise specified any notice or communication in terms of this Agreement:

20.1.1 must be in writing to be effective;

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20.1.2 must be sent by hand, registered post or e-mail to the addresses below, which physical addresses the Parties select as their respective domicilium citandi et executandi:

20.2 Unless otherwise specified any notice or communication in terms of this Agreement:

20.2.1 must be in writing to be effective;

20.2.2 must be sent by hand, registered post or e-mail to the addresses/ numbers below, which physical addresses the Parties select as their respective domicilium citandi et executandi:

the Seller	2nd Floor, West Tower, Maude Street, Nelson Mandela Square, Sandton. 2196. RSA. PO Box 785553, Sandton. 2146. E-mail: mbuso.dlamini@palacegroup.co.za
the Purchaser	3 Gwen Lane, Sandton, Johannesburg, 2000. PO Box 786130, Sandton, 2146. Email: lmeyer@eris.co.za

20.3 A Party may change its address to any other address within South Africa. Such change will only take effect upon receipt or deemed receipt of such notice by the other Party.

20.4 Any notice or communication shall:

20.4.1 if delivered by hand during business hours to the person apparently in charge of the Property selected by the addressee for the delivery of notices, be deemed to have been received on the date of delivery;

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20.4.2 if sent by registered post to the selected address, be deemed to have been received 6 days after posting; and

20.4.3 if sent by e-mail to the selected e-mail address of the addressee, be deemed to have been received on the first business day following the date on which it has been transmitted from the information system under the control of the sender.

20.5 Any written notice or communication which has actually been received by a Party shall be regarded as sufficient notice even if it has not been sent in the manner or to the address number provided for above.

21. MISCELLANEOUS LEGAL PROVISIONS

21.1 This is the whole agreement between the Parties containing all of the express provisions agreed on by the Parties with regard to the subject matter hereof.

21.2 No Party may rely on any representation which allegedly induced that Party to enter into this agreement, unless the representation is recorded herein.

21.3 No agreement varying, adding to, deleting from or cancelling this agreement (including this clause) and no waiver of any right under this agreement shall be effective unless in writing and signed by or on behalf of the Parties.

21.4 No relaxation by a Party of any of its rights in terms of this agreement at any time shall prejudice or be a waiver of its rights (unless it is a signed written waiver) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.

21.5 No Party may cede, delegate, assign or sub-contract any of its rights or obligations in terms of this Agreement without the prior written consent of the other Parties.

21.6 This Agreement may be signed by the Parties in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement.

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21.7 Since the provisions of this Agreement have been settled by negotiation and each Party has been free to secure independent legal advice, the rule of construction that clauses must be interpreted against the Party principally responsible for drafting does not apply.

21.8 Where an expression has been defined and such definition contains a provision conferring a right or imposing an obligation on any Party, then notwithstanding that it is contained only in a definition, effect must be given to that provision as if it were a substantive provision contained in the body of this Agreement.

21.9 Words or expressions defined in any particular clause in the body of this agreement must bear the meaning so assigned to it throughout this Agreement unless the context indicates otherwise.

21.10 The *eiusdem generis* rule does not apply so that whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "including" and specific examples, such examples must not be construed so as to limit the general ambit of the provision concerned.

21.11 A reference to any legislation (including statutes, ordinances, regulations and by-laws) must be construed as a reference to that legislation as at the date of signature of this agreement and as may be amended or re-enacted or substituted from time to time.

21.12 A reference to any statutory body or court or to any association for the purposes appointing an expert or arbitrator must be construed as a reference to that statutory body or court or association as at the date of signature and any successor.

21.13 A reference to any legal principle, doctrine or process under South African law includes a reference to the equivalent or analogous principle, doctrine or process in any other jurisdiction in which the provisions of this agreement may apply or to the laws of which a Party may be or become subject.

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21.14 The expiration or termination of this Agreement does not affect such of its provisions which of necessity must continue to apply after such expiration or termination.

21.15 Headings of clauses are inserted for the purpose of convenience only and must be ignored in the interpretation of this Agreement.

21.16 Unless inconsistent with the context, words signifying any one gender will include the others, words signifying the singular will include the plural and vice versa and words signifying natural persons will include artificial persons and vice versa.

21.17 Any reference to an amount in this Agreement means that amount is exclusive of VAT unless specified otherwise.

21.18 The various documents forming part of this Agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the Agreement will prevail.

21.19 Each Party must bear its own legal costs incidental to the negotiation, preparation and implementation of this Agreement.

21.20 Any costs incurred by a Party arising out of the breach by any other Party of the any of the provisions of this Agreement must be borne by the Party in breach on an attorney and own client scale.

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SIGNED at _____ this _____ day of _____ 2016

For **PAPATEKWE DEVELOPMENTS PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this Agreement on its behalf

Full names ……

Designation ……..

SIGNED at _____ this _____ day of _____ 2016

For **PEG HR SOLUTIONS PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this Agreement on its behalf

Full names ……

Designation ……..

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ANNEXURE B6

HODARI CO-DEVELOPMENT

Mbuso

To: du Plessis, Jean
Subject: RE: Erf 2579, Umhlanga - DD acceptance letter

From: du Plessis, Jean <Jean.duPlessis@rmb.co.za>
Sent: Monday, 19 September 2016 12:43
To: mbuso@icon.co.za
Subject: RE: Erf 2579, Umhlanga - DD acceptance letter

Thank you Mbuso

Please do not respond to the email from Hodari

I will get back to you.

Kind Regards

JÉAN DU PLESSIS
Credit Management

Rand Merchant Bank
Telephone +27 11 2824125
Switchboard +27 11 2828000
Facsimile +27 11 3843143
Mobile +27 824628345

www.rmb.co.za

(Rand Merchant Bank, a division of FirstRand Bank Limited, is an Authorised Financial Services Provider)

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: 19 September 2016 12:37 PM
To: du Plessis, Jean
Cc: pes@palacegroup.co.za
Subject: FW: Erf 2579, Umhlanga - DD acceptance letter

Dear Mr Du Plessis

Attached is the DD letter sent to us by Hodari this morning at 09h05.

I have only had access to my emails a few minutes ago.

I will send you the Eris sale agreement as revised to this morning soon after this email.

How do we move forward?

Kind Regards
Mbuso Dlamini

This e-mail is subject to a disclaimer, available at

http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

Mbuso

From: Mbuso Dlamini <mbuso@icon.co.za>
Sent: Monday, 19 September 2016 12:37
To: 'du Plessis, Jean'
Cc: 'pes@palacegroup.co.za'
Subject: FW: Erf 2579, Umhlanga - DD acceptance letter
Attachments: New Town Centre Erf 2579 - Purchase - DD Acceptance 01 (19.09.2016).pdf

Dear Mr Du Plessis

Attached is the DD letter sent to us by Hodari this morning at 09h05.

I have only had access to my emails a few minutes ago.

I will send you the Eris sale agreement as revised to this morning soon after this email.

How do we move forward?

Kind Regards
Mbuso Dlamini

17-154

Hodari
PROPERTIES

Mbuso Dlamini
2nd Floor, West Tower,
Maude Street
Nelson Mandela Square
Sandton
2146

19 September 2016

Dear Mbuso,

RE: SALE OF IMMOVABLE PROPERTY AGREEMENT BETWEEN PEG HR SOLUTIONS PROPRIETARY LIMITED AND HODARI PROPERTIES PROPRIETARY LIMITED IN RESPECT OF ERF 2579 UMHLANGA ROCKS, DURBAN

In reference to clause 3.1.1 and clause 5 of the above-mentioned agreement, Hodari would like to confirm that it is satisfied with the Due Diligence investigation conducted on the Property.

Yours sincerely,

Garry Hamilton
Director

T +27 (0)31 536 1500 F +27 (0)31 536 8195 E info@hodariprop.com
3rd Floor, 53 Richefond Circle, Ridgeside Office Park, Umhlanga Rocks, South Africa
hodariprop.com
Hodari Properties Proprietary Limited (2013/090712/07) Directors: DG Borthwick JG Hamilton GA Loudon KJ Loudon

SALE OF IMMOVABLE PROPERTY AGREEMENT

between

PEG HR SOLUTIONS PROPRIETARY LIMITED

and

HODARI PROPERTIES PROPRIETARY LIMITED, OR NOMINEE

IN RESPECT OF ERF 2579, UMHLANGA ROCKS DURBAN

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Shepstone & Wylie ATTORNEYS

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SALE OF IMMOVABLE PROPERTY AGREEMENT

Between

PEG HR SOLUTIONS PROPRIETARY LIMITED

Registration number 2003/02557/07

("the Seller")

and

HODARI PROPERTIES PROPRIETARY LIMITED, OR NOMINEE

Registration number - 2013/090712/07
("the Purchaser")

1. INTERPRETATION

1.1 In this Agreement, unless the context otherwise indicates:

1.1.1 "Adjacent Sites" means all those erven adjacent to the Property and enclosed by Twilight Drive, Umhlanga Ridge Boulevard, Park Avenue and Park Drive. The sites in question are Erf 2583, Umhlanga Rocks, Erf 2582 Umhlanga Rocks, Erf 2522 Umhlanga Rocks, Erf 2580 Umhlanga Rocks.

1.1.2 "**Agreement**" means this Sale of Immovable Property Agreement;

1.1.1 **"Association"** means Umhlanga Ridge Town Centre Management Association, NPC, Registration No. 2001/000648/08;

1.1.2 **"Bulk"** means bulk as contemplated in the Town Planning Scheme;

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1.1.3 "**Conveyancers**" means Shepstone & Wylie of 24 Richefond Circle, Ridgeside Office Park, Umhlanga Rocks, conveyancers nominated by the Seller to effect registration of transfer of the Property into the name of the Purchaser;

1.1.4 "**Design Review Committee**" means the Design Review Committee of the Association;

1.1.5 "**Development Manual**" means the Umhlanga Ridge New Town Centre Development Manual Volume 2 Version 1.8 prepared by GAPP Architects and Urban Designers for the development of Mixed – Use Sites dated July 2008 and as amended and added to from time to time;

1.1.6 "**Directors**" means the directors of the Association;

1.1.7 "**Due Diligence Period**" means a period of 30 days from the Signature Date;

1.1.8 "**Municipality**" means the eThekwini Municipality;

1.1.9 "**Parties**" means, collectively, the Seller and the Purchaser, and "**Party**" shall mean any one of them, as the context may indicate;

1.1.10 "**Property**" means the vacant immovable property described as Erf 2579 Umhlanga Rocks, Registration Division FU, Province of KwaZulu-Natal, in extent 4,075 square metres;

1.1.11 "**Purchase Price**" means the purchase price payable by the Purchaser to the Seller in respect of the Property being the amount referred to in clause 4.1;

1.1.12 "**Purchaser**" means Hodari Properties Proprietary Limited (Registration Number: 2013/0907/12), a company duly incorporated in terms of the laws of the Republic of South Africa;

1.1.13 "**SARS**" means the South African Revenue Service;

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1.1.14 "**Seller**" means Peg HR Solutions Proprietary Limited (Registration Number: 2003/025572/07), a company duly incorporated in terms of the laws of the Republic of South Africa;

1.1.15 "**Signature Date**" means the date on which this Agreement is signed by the last Party who signs;

1.1.16 "**Suspensive Conditions**" means the suspensive conditions referred to in clause 3;

1.1.17 "**Tongaat Hulett**" means Tongaat Hulett Developments Proprietary Limited, Registration No. 1981/012378/07;

1.1.18 "**Town Centre**" means "the Town Centre" as defined in the Association's Memorandum of Incorporation;

1.1.19 "**Transfer Date**" means the date of registration of transfer of the Property from the Seller to the Purchaser;

1.1.20 "**VAT**" means value-added tax in terms of the VAT Act; and

1.1.21 "**Writing**" (or words of similar meaning) means legible writing and in English and excludes any form of electronic communication contemplated in the Electronic Communications and Transactions Act.

1.2 Any reference to -

1.2.1 the singular includes the plural and *vice versa*;

1.2.2 natural Persons include juristic Persons and *vice versa*;

1.2.3 any one sex or gender includes the other sexes or genders, as the case may be;

1.2.4 any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment or legislative measure of government (including local or provincial government) statutory or regulatory body which has the force of Law means the relevant

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enactment or legislative measure as at the Signature Date and as amended or re-enacted from time to time;

1.2.5 a Party includes a reference to that Party's estate, successors in title and assigns allowed at Law; and

1.2.6 "Business Day" means any Day other than a Saturday, Sunday or South African Public Holiday;

1.2.7 "Calendar Month" means one of the 12 Months of the Year from the 1st to the last Day of such Month;

1.2.8 "Day" means a calendar Day;

1.2.9 "Month" means a Month calculated from a particular Day in one Month to the Day before the Day numerically corresponding to it in the following Month;

1.2.10 "Year" means a year calculated from a particular Day in one year to the Day before the Day numerically corresponding to it in the following year;

1.3 Whenever any number of Days is prescribed, it excludes the first and includes the last Day unless the last Day falls on a Saturday, Sunday or South African public holiday in which case the last Day will be the next succeeding business Day.

1.4 The words "shall" and "will" and "must" used in the context of any obligation or restriction imposed on a Party have the same meaning.

1.5 The clause headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation.

1.6 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.7 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to that provision as

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if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.

1.8 If any period is referred to in this Agreement by way of a reference to a number of Days or weeks or Months or other intervals, the period shall be reckoned exclusively of the 1st Day and inclusively of the last Day of the relevant interval, unless the last Day falls on a Day which is not a business Day, in which case the last Day shall be the next succeeding business Day.

1.9 If the due date for performance of any obligation in terms of this Agreement is a Day which is not a Business Day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately succeeding Business Day.

1.10 If any obligation or act is required to be performed on a particular Day it shall be performed (unless otherwise stipulated) by 16h00 (local time at the place where the obligation or act is required to be performed) on that Day.

1.11 This Agreement shall be governed, interpreted and enforced in accordance with the Laws of the Republic of South Africa from time to time.

1.12 No provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement.

1.13 The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply.

1.14 The terms defined in this Agreement shall bear the same meanings in any annexures hereto.

2. THE SALE

The Seller sells and the Purchaser purchases the Property.

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3. SUSPENSIVE CONDITIONS

3.1 Except for clauses 3, 5, 7.1 and 19 to 21 (and any other provision necessary to give effect to those clauses), this Agreement shall be of no further force and effect unless by no later than:

3.1.1 30 days after the Signature Date, the Purchaser provides the Seller with Written confirmation that it is satisfied with the results of the due diligence investigation which it will be conducting in terms of clause 5, in respect of the Property;

3.1.2 The Seller provides the Purchaser with a company resolution stating that the company has resolved to sell the Property and that the person signing this agreement has the authority to do so.

3.1.3 60 days after the Signature Date, the Purchaser provides the Seller with Written confirmation that it has secured finance necessary to enable it to comply with its financial obligations under this Agreement.

3.2 The suspensive conditions in clause 3.1 are in favour of the Purchaser and may be waived by the Purchaser in writing prior to the date for fulfilment of the conditions.

3.3 If the suspensive conditions remain unfulfilled and the fulfilment thereof is not waived by the Purchaser, then the Agreement will be of no force and effect and:

3.3.1 to the extent that this Agreement may have been partially implemented, the parties must as far as possible be restored to the positions they were in prior to the Signature Date;

3.3.2 no Party will have any claim against the other arising out of or in connection with this Agreement.

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4. PURCHASE PRICE AND PAYMENT

4.1 The Purchase Price for the Property is R26,000,000 (Twenty Six Million Rand) excluding VAT, if any, payable to the Seller on the Transfer Date. This figure was arrived at by multiplying the proposed available bulk of 6,500 metres squared by R4,000 per metre squared.

4.2 Payment of the Purchase Price together with VAT thereon, if applicable must be secured by the Purchaser lodging a bank guarantee for the full Purchase Price, plus VAT, if any, with the Conveyancers within 45 Days from the date of fulfilment of the last of the Suspensive Conditions.

4.3 The guarantee referred to in clause 4.2 shall be from a bank and on terms and conditions acceptable to the Seller, in favour of the Seller or the Seller's nominee, drawn and payable:

4.3.1 on a South African bank;

4.3.2 on cancellation of any existing mortgage bond/s over the Property;

4.3.3 on registration of transfer of the Property by the Seller into the name of the Purchaser; and

4.3.4 on registration of a new mortgage bond in favour of the bank that the Purchaser procures mortgage loan finance.

4.4 The Purchaser shall be registering a mortgage bond over the Property simultaneously with transfer of the Property to the Purchaser.

4.5 All payments in terms of or arising out of this Agreement must be made without demand and free of all charges to the party entitled to payment.

5. DUE DILIGENCE

5.1 During the Due Diligence Period, the Purchaser may undertake a due diligence investigation into the Property.

5.2 The Seller undertakes throughout the Due Diligence Period to:

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5.2.1 co-operate with the Purchaser, its authorised representatives, employees, attorneys and auditors (together "the Purchaser's Team");

5.2.2 make available and, where required, provide copies to the Purchaser's team of all documents, books, records, electronic data and information requested by the Purchaser for the purpose of the due diligence investigation; and

5.2.3 ensure that the Seller, its officers, employees, agents, auditors and advisers answer questions from the Purchaser's team and provide all information and documents that may be required by the Purchaser's Team.

5.3 The Purchaser undertakes to keep all information disclosed to it for the purposes of the due diligence investigation strictly confidential and undertakes not to use such information or disclose any such information to any person, other than the Purchaser's Team who are required to consider and evaluate it. This undertaking does not apply to any information which is not confidential or is public knowledge or which is or falls into the public domain through no fault of the Purchaser.

5.4 The Purchaser will use the Due Diligence period to confirm the availability of the proposed bulk of 6,500 metres squared that may be developed on the Property as indicated in the "Park Junction" brochure emailed to the Purchaser by Peter Ferraz of Profica Project Managers on the 27th of July 2016.

5.5 The Purchaser requires that, within the Due Diligence period, the Seller confirms the final designs of the buildings on the Adjacent Sites to enable the Purchaser to gauge the impact on the Purchaser's proposed design of the building on the Property.

6. TRANSFER OF THE PROPERTY

6.1 The Property must be registered in the name of the Purchaser within a reasonable time after the date of fulfilment of the suspensive conditions in clause 3 and:

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6.1.1 the parties must ensure that their tax affairs are up to date as required by SARS to facilitate prompt issue by SARS of the transfer duty receipt or transfer duty exemption receipt or transfer duty receipt as the case may be;

6.1.2 the Seller must do everything required to enable the Municipality to promptly issue the rates clearance certificate for the Property including but not limited to paying all outstanding rates and taxes; and

6.1.3 the Seller must do everything required to enable the Association to promptly issue a clearance certificate for the Property.

6.2 Each Party must, within 7 Days after being called upon to do so by the Conveyancers, sign all documents required to be signed and furnish all documents required to be furnished by that Party to enable transfer of the Property to be given to the Purchaser.

7. OCCUPATION AND RISK

7.1 The Seller agrees from the Signature Date to grant the Purchaser and its agents reasonable access to the Property by pre-arrangement with the Seller, at all reasonable times, for purposes of investigation, survey, soil testing, environmental and planning investigations, and any other investigations which the Purchaser may in its sole discretion deem necessary.

7.2 On the Transfer Date the Seller must give the Purchaser vacant occupation of the Property.

7.3 With effect from the Transfer Date:

7.3.1 all the benefit and risk of ownership of the Property will pass to the Purchaser;

7.3.2 the Purchaser is liable for all rates, taxes and other charges levied on the Property;

7.3.3 the Purchaser is liable for all levies to the Association.

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8. PURCHASER'S ACKNOWLEDGMENTS AND UNDERTAKINGS

8.1 The Purchaser:

8.1.1 acknowledges that it is aware of the intended future development of the Town Centre by Tongaat Hulett and that such development is intended to involve the establishment of high quality business and commercial premises and residential dwellings on various portions of the Town Centre and so designed as to facilitate an aesthetic and harmonious blending with the environment;

8.1.2 undertakes that it will, at all times, co-operate with Tongaat Hulett and the Seller in an endeavour to facilitate the success of the said development and undertakes that it shall not interfere with any such proposed development nor lodge any objection with any competent authority in respect of any such development;

8.1.3 agrees that it will not object to any application made by or on behalf of Tongaat Hulett, its nominee or agent for special usage consent, licences for shopping, commercial or filling station rights, rezoning, removal of conditions of title under the Removal of Restrictive Conditions Act or by way of any application to Court or to any local or other competent authority in respect of any property within the Town Centre;

8.1.4 specifically acknowledges that owners of land surrounding the Property will be erecting buildings or other structures on surrounding land which may block or otherwise interfere with the views from the Premises and the Purchaser agrees he shall have no right to object to construction of any building or other structure on land in the Town Centre on the basis that such building or other structure blocks or otherwise interferes with the views from the Premises, nor will he have any claim for any alleged diminution in the value of the Premises arising out of any interference with the views from the Premises by reason of the construction of any such building or structure;

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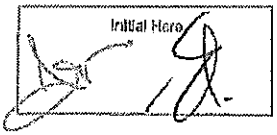

8.1.5 acknowledges that no buildings or alterations or extension to existing buildings or any other structures may be erected on the Property other than in accordance with plans approved by the Association acting through the Design Review Committee and the Purchaser agrees that it will have no claim whatsoever, arising out of whatever cause, against the Association, any members of the Design Review Committee or Tongaat Hulett or the Seller for any loss suffered by reason of the Design Review Committee refusing to approve or delay the approval of any plans submitted by the Purchaser save where the Purchaser can prove mala fides on the part of the Design Review Committee or where the decision was not made in accordance with the Association's Memorandum of Incorporation as read with the Development Manual and the Architectural Controls;

9. COSTS

9.1 The Purchaser is liable for, and must on receipt of an account from the Conveyancers pay:

9.1.1 the legal costs of and incidental to the transfer of the Property other than those specified in clause 9.2;

9.1.2 VAT on the Purchase Price, if any;

9.1.3 Transfer duty, if there is no VAT on the Purchase Price; and

9.1.4 VAT payable on the costs payable by the Purchaser in terms of this clause 9.1.

9.2 Any costs in connection with the cancellation of existing bonds and of any other rights which require to be cancelled to enable the Property to be transferred to the Purchaser, the amendment or replacement of the Seller's title deed or the withdrawal of judicial attachments, interdicts, caveats or other bars to transfer must be paid by the Seller.

9.3 Each Party is liable for its own legal costs of and incidental to the negotiation, drafting, settlement and signature of this Agreement.

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10. LEVIES TO ASSOCIATION

10.1 From the Transfer Date, the Purchaser shall be responsible to pay a monthly levy to the Association in respect of these items referred to in the Memorandum of Incorporation of the Association.

10.2 The monthly levy payable to the Association shall be calculated in accordance with the provisions of the Memorandum of Incorporation of the Association.

11. **MEMBERSHIP OF THE UMHLANGA RIDGE TOWN CENTRE MANAGEMENT ASSOCIATION NPC**

11.1 The Purchaser acknowledges that it shall be obliged to become and remain a Member of the Association from the Transfer Date and the Purchaser undertakes to comply in every respect with the Association's Memorandum of Incorporation and the rules made in terms thereof at all time, and to ensure that any person who comes upon the Property, or the Town Centre by virtue of the Purchaser's rights thereto, does likewise.

12. **RULES OF THE ASSOCIATION**

12.1 The Purchaser acknowledges that the Directors have the power to make rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Town Centre, for the purposes of giving proper effect to the provisions of the Memorandum of Incorporation of the Association and for any other purpose, which powers shall include the right to impose reasonable financial penalties to be paid by those members who fail to comply with the provisions of the Memorandum of Incorporation or the Rules.

12.2 The Purchaser acknowledges that, subject to the provisions of this Agreement and the Development Manual, the Directors shall be entitled at all times to lay down rules in regard to -

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12.2.1 the preservation of the natural environment;

12.2.2 vegetation and flora and fauna in the Town Centre;

12.2.3 the placing of movable objects upon or outside the buildings included in the Town Centre, including the power to remove any such objects;

12.2.4 the storing of flammable and other harmful substances;

12.2.5 the conduct of any persons within the Town Centre and the prevention of nuisance of any nature to any owner of immovable property in the Town Centre;

12.2.6 the use of land within the Town Centre having regard to the intended retail, commercial and mixed use of the Town Centre, (including but in no way limited to, the level of noise emanating from the use of the property and the parking and traffic implications of same);

12.2.7 the use of roads, pathways and open spaces;

12.2.8 the imposition of fines and other penalties to be paid by Members of the Association;

12.2.9 the management, administration and control of the common areas and open spaces;

12.2.10 the Design Guidelines for the erection of all buildings and other structures, including service connections to buildings;

12.2.11 the Design Guidelines for the establishment, installation and maintenance of gardens, both public and private;

12.2.12 the use by owners and their tenants of buildings and other structures and the upkeep, aesthetics and maintenance of such buildings;

12.2.13 the use of adjoining sidewalks, road frontages and parking areas;

12.2.14 security; and

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12.2.15 generally in regard to any other matter which the Directors of the Association from time to time considers appropriate and in the best interests of its Members, and the Purchaser undertakes and shall be obliged, with effect from the Transfer Date, to abide by such rules as if he was the owner of the Premises and to ensure that all tenants, nominees, invitees and other persons who occupy or enter upon the Premises and its surrounds by virtue of the Purchaser's rights thereto, do likewise.

12.3 The Purchaser shall be obliged to bring the Rules to the attention of any tenant prior to such tenant taking possession of the Premises or any portion thereof.

13. MUNICIPAL SERVICES

The Purchaser acknowledges that should the Municipality or any other service provider not have the means, or be unwilling, or agree to delegate the obligation to the Association, to maintain or provide municipal services within the Town Centre, the Association may, if the Association in its sole discretion deems it appropriate, take over the responsibility for providing and maintaining such services and/or enhanced services.

14. AGENT'S COMMISSION

The Purchaser was introduced to the Seller by Tim White and Peter Ferraz of Profica Property and Construction Solutions. The Seller is liable for the commission to be paid on this transaction.

15. WARRANTIES

15.1 The Seller warrants with regards to the Property that:

15.1.1 the Property is beneficially owned by the Seller which will be able to give free and unencumbered title thereof to the Purchaser in accordance with the provisions of the Agreement;

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15.1.2 no person has or, on the Transfer Date, will have any rights of acquisition (including options, rights of pre-emption or rights of first refusal) in respect of the Property nor any right to encumber the Property;

15.1.3 the Property is not and, on the Transfer Date, will not be subject to any leases or other rights of occupation in favour of any person;

15.1.4 the Property is not and, on the Transfer Date, will not be subject to any unregistered servitudes or other unregistered real rights;

15.1.5 to the knowledge of the Seller (the Seller being deemed to have the knowledge which could reasonably be expected of an owner of the Property), the Property is not land in respect of which any person may make a claim (or has made a claim which is unresolved) as envisaged in the Restitution of Land Rights Act, No. 22 of 1994 (as amended) or any other similar claims;

15.1.6 there is no proposal to amend the zoning of the Property.

15.2 For the purposes hereof, "knowledge" includes all matters in respect of which the Seller has actual knowledge or could, through making reasonable enquires in this regard, have acquired actual knowledge. Furthermore, a matter shall be regarded as material if its disclosure prior to the date of signature would have caused the Purchaser, acting reasonably, not to have entered into the Agreement either at all or on the terms and conditions set out in the Agreement.

15.3 The warranties provided herein shall be given as at the Signature Date and the Transfer Date (save unless expressly stated or where clearly inappropriate).

16. NOMINATION OF NEW PURCHASER

16.1 The Purchaser shall be entitled, no later than 7 Days from the fulfilment of the last of the Suspensive Conditions, to nominate a third Party as purchaser under this Agreement in its place and stead ("the Second Purchaser") in which

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event the Seller hereby agrees that this sale to the Purchaser shall be cancelled with effect from the date of signature of a new sale agreement between the Seller and the Second Purchaser on the same terms and conditions, mutatis mutandis, as set out in this Agreement save that-

16.1.1 the purchaser shall be defined as the person who is the Second Purchaser;

16.1.2 any cancellation and new sale is subject to the condition that:

16.1.2.1 the second Purchaser must be in existence on the date of the new sale;

16.1.2.2 there are no suspensive conditions in the new sale.

16.2 The Parties undertake to forthwith do all things within their respective powers to ensure the signature of the new sale agreement occurs within 7 Days of date of acceptance of the nomination by the Second Purchaser.

16.3 It is recorded that:

16.3.1 no consideration shall be payable to any person in respect of the cancellation of this Agreement;

16.3.2 the Seller shall not receive any amounts from the Purchaser (whether in respect of the purchase price payable under this Agreement or otherwise), which will require to be refunded as a result of the cancellation of this Agreement.

17. FICA AND POCA

17.1 The Purchaser acknowledges that:

17.1.1 the Conveyancers are designated as an "accountable institution" in terms of FICA;

17.1.2 certain obligations are placed on the Conveyancers in terms of FICA and the POCA and regulations promulgated in terms thereof; and

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17.1.3 the Conveyancers will not invest and administer any deposits or any other monies paid by the Purchaser in terms of this Agreement unless the Purchaser has provided the Conveyancers with the documents that they require in terms of FICA and signed an authority to invest.

17.2 The Purchaser undertakes to comply with all requirements of and supply all information and documentation required by the Conveyancers to enable the Conveyancers to fulfil their obligations in terms of FICA and POCA and the regulations thereunder.

18. MUTUAL WARRANTIES AND REPRESENTATIONS

Each Party hereby represents and warrants to the other that:

18.1 it has the requisite power to enter into this Agreement and to exercise its rights and perform its obligations hereunder;

18.2 all authorities or other actions required to authorise its execution of this Agreement and its performance of its obligations hereunder have been duly taken;

18.3 the execution of this Agreement and its exercise of its rights and performance of its obligations hereunder do not constitute and will not, to the best of its knowledge and belief, result in any breach of any agreement, law or treaty;

18.4 this Agreement is executed by its duly authorised representative;

18.5 all acts, conditions and other things required to be done, fulfilled and performed in order:

18.5.1 to enable it lawfully to enter into, exercise its rights under and perform its obligations expressed to be assumed by it in this Agreement;

18.5.2 to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid and binding; and

18.5.3 to make this Agreement admissible in evidence in South Africa,

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have been done, fulfilled and performed.

19. BREACH

19.1 If either Party breaches any provision of this Agreement and remains in breach for 14 days after receipt of written notice by such Party requiring that Party to rectify that breach, the other Party shall be entitled at that Party's option:

19.1.1 to sue for the immediate specific performance of any or all the defaulting Party's obligations under this Agreement whether or not any such obligation is then due; or

19.1.2 (either as an alternative to a claim for specific performance or upon the abandonment of such a claim) to cancel this Agreement. Written notice of such cancellation shall be given to the defaulting Party and the cancellation shall take effect on the giving of such notice.

19.2 In the event of either Party cancelling this Agreement in terms of the preceding sub-clause, the aggrieved Party shall be entitled to claim damages suffered related to such cancellation.

19.3 The parties remedies in terms of this clause are without prejudice to any other remedies to which the parties may be entitled in law.

20. NOTICES AND ADDRESSES FOR SERVICE

20.1 Unless otherwise specified any notice or communication in terms of this Agreement:

20.1.1 must be in writing to be effective;

20.1.2 must be sent by hand, registered post or e-mail to the addresses below, which physical addresses the parties select as their respective domicilium citandi et executandi:

20.2 Unless otherwise specified any notice or communication in terms of this Agreement:

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20.2.1 must be in writing to be effective;

20.2.2 must be sent by hand, registered post or e-mail to the addresses/ numbers below, which physical addresses the parties select as their respective domicilium citandi et executandi:

the Seller	2nd Floor, West Tower, Maude Str, Nelson Mandela Square, Sandton, 2196, P.O. Box 785553, Sandton, 2146. E-mail: mbuso.dlamini@palacegroup.co.za
the Purchaser	3rd Floor, 53 Richefond Circle Ridgeside Office Park Umhlanga Rocks PO Box 489 La Lucia 4159 Email: garry@hodariprop.com

20.3 A Party may change its address to any other address within South Africa. Such change will only take effect upon receipt or deemed receipt of such notice by the other Party.

20.4 Any notice or communication shall:

20.4.1 if delivered by hand during business hours to the person apparently in charge of the premises selected by the addressee for the delivery of notices, be deemed to have been received on the date of delivery;

20.4.2 if sent by registered post to the selected address, be deemed to have been received 6 days after posting; and

20.4.3 if sent by e-mail to the selected e-mail address of the addressee, be deemed to have been received on the first business day following the date on which it has been transmitted from the information system under the control of the sender.

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20.5 Any written notice or communication which has actually been received by a Party shall be regarded as sufficient notice even if it has not been sent in the manner or to the address number provided for above.

21. MISCELLANEOUS LEGAL PROVISIONS

21.1 This is the whole agreement between the parties containing all of the express provisions agreed on by the parties with regard to the subject matter hereof.

21.2 No party may rely on any representation which allegedly induced that party to enter into this agreement, unless the representation is recorded herein.

21.3 No agreement varying, adding to, deleting from or cancelling this agreement (including this clause) and no waiver of any right under this agreement shall be effective unless in writing and signed by or on behalf of the parties.

21.4 No relaxation by a party of any of its rights in terms of this agreement at any time shall prejudice or be a waiver of its rights (unless it is a signed written waiver) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.

21.5 No party may cede, delegate, assign or sub-contract any of its rights or obligations in terms of this Agreement without the prior written consent of the other parties.

21.6 This Agreement may be signed by the parties in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement.

21.7 Since the provisions of this Agreement have been settled by negotiation and each party has been free to secure independent legal advice, the rule

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of construction that clauses must be interpreted against the party principally responsible for drafting does not apply.

21.8 Where an expression has been defined and such definition contains a provision conferring a right or imposing an obligation on any party, then notwithstanding that it is contained only in a definition, effect must be given to that provision as if it were a substantive provision contained in the body of this Agreement.

21.9 Words or expressions defined in any particular clause in the body of this agreement must bear the meaning so assigned to it throughout this Agreement unless the context indicates otherwise.

21.10 The *eiusdem generis* rule does not apply so that whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "including" and specific examples, such examples must not be construed so as to limit the general ambit of the provision concerned.

21.11 A reference to any legislation (including statutes, ordinances, regulations and by-laws) must be construed as a reference to that legislation as at the date of signature of this agreement and as may be amended or re-enacted or substituted from time to time.

21.12 A reference to any statutory body or court or to any association for the purposes appointing an expert or arbitrator must be construed as a reference to that statutory body or court or association as at the date of signature and any successor.

21.13 A reference to any legal principle, doctrine or process under South African law includes a reference to the equivalent or analogous principle, doctrine or process in any other jurisdiction in which the provisions of this agreement may apply or to the laws of which a party may be or become subject.

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21.14 The expiration or termination of this Agreement does not affect such of its provisions which of necessity must continue to apply after such expiration or termination.

21.15 Headings of clauses are inserted for the purpose of convenience only and must be ignored in the interpretation of this Agreement.

21.16 Unless inconsistent with the context, words signifying any one gender will include the others, words signifying the singular will include the plural and vice versa and words signifying natural persons will include artificial persons and vice versa.

21.17 Any reference to an amount in this Agreement means that amount is exclusive of VAT unless specified otherwise.

21.18 The various documents forming part of this Agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the Agreement will prevail.

21.19 Each party must bear its own legal costs incidental to the negotiation, preparation and implementation of this Agreement.

21.20 Any costs incurred by a party arising out of the breach by any other party of the any of the provisions of this Agreement must be borne by the party in breach on an attorney and own client scale.

22. OFFER AND ACCEPTANCE

22.1 The signature of the Purchaser to this Agreement constitutes an offer to the Seller, which offer remains open for acceptance by the Seller until 17h00 on 12 Aug 2016 ("the Offer Period").

22.2 Should the Seller fail to countersign this Agreement and to transmit a copy of the signed agreement to the Purchaser before the expiry of the Offer Period then the offer shall be deemed to have lapsed and to be of no force and effect.

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SIGNED at SANDTON this 11 day of AUGUST 2016

For **PEG HR SOLUTIONS PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this Agreement on its behalf

Full names EPHRAIM MBUSO DLAMINI

Designation DIRECTOR

SIGNED at UMHLANGA this 11 day of AUGUST 2016

For **HODARI PROPERTIES PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this Agreement on its behalf

Full names John Gracey Hamilton

Designation Director

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FIRST ADDENDUM TO SALE OF IMMOVABLE PROPERTY AGREEMENT

between

HODARI PROPERTIES PROPRIETARY LIMITED, OR NOMINEE

and

PEG HR SOLUTIONS PROPRIETARY LIMITED

IN RESPECT OF ERF 2579, UMHLANGA ROCKS, DURBAN

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Shepstone Wylie ATTORNEYS

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FIRST ADDENDUM TO SALE OF IMMOVABLE PROPERTY

between

HODARI PROPERTIES PROPRIETARY LIMITED
Registration number 2013/090712/07
("the Purchaser")

and

PEG HR SOLUTIONS PROPRIETARY LIMITED
Registration number 2003/025572/07
("the Seller")

1. INTRODUCTION

1.1 On 10 August 2016, the Seller accepted an offer to purchase from the Purchaser ("the Sale of Immovable Property") in respect of Erf 2579, Umhlanga Rocks, Durban

1.2 As per clause 4.1 of the Sale of Immovable Property, the Purchase Price agreed upon was arrived at by multiplying the proposed bulk indicated in the brochure received by the Purchaser from the Seller by R4000/bulk metre squared.

1.3 Subsequently, it has become apparent that the proposed bulk available on the site indicated in the title deed differs to that of the proposed bulk which the Purchaser based its decision on.

1.4 The parties wish to amend the Sale of Immovable Property on the terms and conditions contained in this addendum.

2. AMENDMENT TO PURCHASE PRICE

2.1 The Purchase Price for the Property is R24,560,000 (Twenty Four Million Five Hundred and Sixty Thousand Rand) excluding VAT, if any, payable to the Seller on the Transfer Date. This figure was arrived at by multiplying the available bulk of 6,140 metres squared (indicated in the title deed T058950/07) by R4,000 per metre squared.

3. AMENDMENT TO DUE DILIGENCE PERIOD

Clause 3.1.1 of the Sale of Immovable Property to read as follows:

3.1 30 days after the Signature Date of the First Addendum, being the date that the Seller counter-signs the First Addendum, the Purchaser provides the Seller with written confirmation that it is satisfied with the results of the due diligence investigation which it will be conducting in terms of clause 5, in respect of the Property;

4. MISCELLANEOUS TERMS

In addition to clauses 2.1 to 3.1 of this 1st addendum, all other terms and conditions of the lease as may be appropriate, shall be applicable to the Sale of Immovable Property.

SIGNED at Umhlanga this 15 day of August 2016

For HODARI PROPERTIES PROPRIETARY LIMITED
who hereby warrants that (s)he is duly authorised to sign this agreement on its behalf

Full names John Garry Hamilton

Designation Director

SIGNED at SANDTON this 15 day of AUGUST 2016

For **PEG HR SOLUTIONS PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this agreement on its behalf

Full names EPHRAIM MBUSO DLAMINI

Designation DIRECTOR

SECOND ADDENDUM TO SALE OF IMMOVABLE PROPERTY AGREEMENT

between

HODARI PROPERTIES PROPRIETARY LIMITED, OR NOMINEE

and

PEG HR SOLUTIONS PROPRIETARY LIMITED

IN RESPECT OF ERF 2579, UMHLANGA ROCKS, DURBAN

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SECOND ADDENDUM TO SALE OF IMMOVABLE PROPERTY

between

HODARI PROPERTIES PROPRIETARY LIMITED
Registration number 2013/090712/07
("the Purchaser")

and

PEG HR SOLUTIONS PROPRIETARY LIMITED
Registration number 2003/025572/07
("the Seller")

1. INTRODUCTION

1.1 On 10 August 2016, the Seller accepted an offer to purchase from the Purchaser ("the Sale of Immovable Property") in respect of Erf 2579, Umhlanga Rocks, Durban

1.2 As per clause 4.1 of the Sale of Immovable Property, the Purchase Price agreed upon was arrived at by multiplying the proposed bulk indicated in the brochure received by the Purchaser from the Seller by R4000/bulk metre squared.

1.3 On 15 August 2016, due to the available bulk being thought to be 6,140 metres squared and not 6,500 metres squared indicated in the Sale of Immovable Property, an addendum was signed ("the First Addendum") amending the purchase price for the Property to R24,560,000 (Twenty Four Million Five Hundred and Sixty Thousand Rand) excluding VAT, if any, payable to the Seller on the Transfer Date.

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1.4 Subsequently, it has become apparent that the bulk available on the site indicated is in fact 6,308 metres squared. This is indicated in annexure B of the title deed labelled T058950/07.

1.5 The parties wish to further amend the Sale of Immovable Property on the terms and conditions contained in this addendum.

2. AMENDMENT TO PURCHASE PRICE

2.1 The Purchase Price for the Property is R25,232,000 (Twenty Five Million Two Hundred and Thirty Two Thousand Rand) excluding VAT, if any, payable to the Seller on the Transfer Date. This figure was arrived at by multiplying the available bulk of 6,308 metres squared by R4,000 per metre squared.

3. AMENDMENT TO DUE DILIGENCE PERIOD

Clause 3.1.1 of the Sale of Immovable Property to read as follows:

3.1 30 days after the Signature Date of the Second Addendum, being the date that the Seller counter-signs the First Addendum, the Purchaser provides the Seller with written confirmation that it is satisfied with the results of the due diligence investigation which it will be conducting in terms of clause 5, in respect of the Property;

4. MISCELLANEOUS TERMS

In addition to clauses 2.1 to 3.1 of this 1st addendum, all other terms and conditions of the lease as may be appropriate, shall be applicable to the Sale of Immovable Property.

SIGNED at Umhlanga this 18 day of August 2016

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Initial Here

For **HODARI PROPERTIES PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this agreement on its behalf

Full names JOHN GREGORY HAMILTON

Designation DIRECTOR

SIGNED at SANDTON this 18 day of AUGUST 2016

For **PEG HR SOLUTIONS PROPRIETARY LIMITED**
who hereby warrants that (s)he is duly authorised to sign this agreement on its behalf

Full names EPHRAIM MBUSO DLAMINI

Designation DIRECTOR

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Initial Here

ANNEXURE B14

INTRUCTION FROM FIRST RAND BANK LIMITED FOR RESPONDENT TO SELL ERF 2583 UMHLANGA ROCKS TO THE MICHAEL FAMILY TRUST

Mbuso

From: du Plessis, Jean <Jean.duPlessis@rmb.co.za>
Sent: Tuesday, 21 August 2018 16:03
To: Mbuso Dlamini
Subject: PEG HR
Attachments: MFT Offer To Purchase (1).pdf; PEG Shareholders Resolution.pdf; PEG Directors Resolution.pdf

Hi Mbuso

I tried to phone you, but in the mean time attached is a signed offer for R25 m plus VAT. Please have a look and phone me to discuss. Also note that it expires later in the week.

Regards

Jean du Plessis

This e-mail is subject to a disclaimer, available at
http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

BOWMANS

Execution Version

SALE OF IMMOVABLE PROPERTY AGREEMENT

(Erf 2583, Umhlanga Rocks Durban)

between

PEG HR SOLUTIONS PROPRIETARY LIMITED

and

THE MICHAEL FAMILY TRUST (OR ITS NOMINEE)

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PARTIES:

This Agreement is made between:

(1) **PEG HR SOLUTIONS PROPRIETARY LIMITED**, Registration Number 2003/025572/07, a private company incorporated in accordance with the Laws of South Africa; and

(2) **THE MICHAEL FAMILY TRUST**, Registration Number IT2502/1997, represented herein by its trustees for the time being.

WHEREAS

A. The Seller is the registered owner of the Property.

B. The Purchaser intends purchasing the Property.

C. The Seller has agreed to sell the Property to the Purchaser for the Purchase Price and on the terms and conditions set out in this Agreement.

IT IS AGREED AS FOLLOWS:

1. **DEFINITIONS**

For the purposes of this Agreement and the preamble above, unless the context requires otherwise:

1.1 **AFSA** – the Arbitration Foundation of Southern Africa;

1.2 **Agreement** – this Sale of Immovable Property Agreement which shall be constituted by the Purchaser accepting the Offer in the manner contemplated in clause 3;

1.3 **Association** – Umhlanga Ridge Town Centre Management Association, NPC, Registration Number 2001/000648/08, a non-profit company incorporated in accordance with the Laws of South Africa

1.4 **Bulk** – bulk as contemplated in the Town Planning Scheme applicable to the Property;

1.5 **Compliance Certificate** – a certificate of compliance as contemplated in terms of the Electrical Installation Regulations promulgated under the Machinery and Occupational Safety Act No. 6 of 1983;

1.6 **Conveyancers** – Bowman Gilfillan Inc, 11 Alice Lane, Sandton (Craig Schafer), the conveyancers nominated by the Seller to effect Transfer;

1.7 **Design Review Committee** – the Design Review Committee of the Association;

1.8 **Development Manual** – the Umhlanga Ridge New Town Centre Development Manual Volume 2 Version 1.8 prepared by GAPP Architects and Urban Designers for the development of Mixed – Use Sites dated July 2008 and as amended and added to from time to time;

1.9 **Directors** – the directors of the Association;

1.10 **Due Diligence Period** – a period of 10 Business Days after the Signature Date;

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1.11 **Effective Date** – the date on which all of the Suspensive Conditions have been fulfilled or waived;

1.12 **Municipality** – the eThekwini Municipality;

1.13 **Offer** – the Purchaser's offer to the Seller to purchase the Property from the Seller for the Purchase Price and on the terms and conditions set out in this Agreement as contemplated in clause 3;

1.14 **Parties** – the Seller and the Purchaser and **Party** shall mean any one of them, as the context may indicate;

1.15 **Property** – Erf 2583 Umhlanga Rocks, Registration Division FU, Province of KwaZulu-Natal, in extent 4 971 square metres;

1.16 **Purchase Price** – the purchase price payable by the Purchaser to the Seller for the Property being the amount referred to in clause 5.1;

1.17 **Purchaser** – the Michael Family Trust, Registration Number IT2502/1997, represented herein by its trustees for the time being;

1.18 **SARS** –the South African Revenue Service;

1.19 **Seller** – Peg HR Solutions Proprietary Limited, Registration Number 2003/025572/07, a private company incorporated in accordance with the Laws of South Africa;

1.20 **Signature Date** – the date of signature of this Agreement by the Seller;

1.21 **Suspensive Conditions** – the suspensive conditions set out in clause 4.1;

1.22 **Tongaat Hulett** – Tongaat Hulett Developments Proprietary Limited, Registration Number 1981/012378/07, a private company incorporated in accordance with the Laws of South Africa;

1.23 **Town Centre** – "the Town Centre" as defined in the Association's Memorandum of Incorporation;

1.24 **Transfer** – registration of transfer of the Property from the Seller to the Purchaser in the Pietermaritzburg Deeds Registry;

1.25 **Transfer Date** – the date on which Transfer is effected;

1.26 **VAT** – value-added tax as levied from time to time in terms of the VAT Act, No 89 of 1991.

1.27 Any reference to -

1.27.1 the singular includes the plural and *vice versa*;

1.27.2 natural Persons include juristic Persons and *vice versa*;

1.27.3 any one sex or gender includes the other sexes or genders, as the case may be;

1.27.4 any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment or legislative measure of government (Including local or provincial government) statutory or regulatory body which has the force of Law means the relevant enactment or legislative measure as at the Signature Date and as amended or re-enacted from time to time;

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1.27.5 a Party includes a reference to that Party's estate, successors in title and assigns allowed at Law;

1.27.6 "Business Day" means any Day other than a Saturday, Sunday or South African Public Holiday;

1.27.7 "Calendar Month" means one of the 12 Months of the Year from the 1st to the last Day of such Month;

1.27.8 "Day" means a calendar Day;

1.27.9 "Month" means a Month calculated from a particular Day in one Month to the Day before the Day numerically corresponding to it in the following Month;

1.27.10 "Year" means a year calculated from a particular Day in one year to the Day before the Day numerically corresponding to it in the following year;

1.28 Whenever any number of Days is prescribed, it excludes the first and includes the last Day unless the last Day falls on a Saturday, Sunday or South African public holiday in which case the last Day will be the next succeeding business Day.

1.29 The words "shall" and "will" and "must" used in the context of any obligation or restriction imposed on a Party have the same meaning.

1.30 The clause headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation.

1.31 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.32 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to that provision as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.

1.33 If any period is referred to in this Agreement by way of a reference to a number of Days or weeks or Months or other intervals, the period shall be reckoned exclusively of the 1st Day and inclusively of the last Day of the relevant interval, unless the last Day falls on a Day which is not a business Day, in which case the last Day shall be the next succeeding business Day.

1.34 If the due date for performance of any obligation in terms of this Agreement is a Day which is not a Business Day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately succeeding Business Day.

1.35 If any obligation or act is required to be performed on a particular Day it shall be performed (unless otherwise stipulated) by 16h00 (local time at the place where the obligation or act is required to be performed) on that Day.

1.36 This Agreement shall be governed, interpreted and enforced in accordance with the Laws of the Republic of South Africa from time to time.

1.37 No provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement.

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1.38 The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply.

1.39 The terms defined in this Agreement shall bear the same meanings in any annexures hereto.

2. **SALE**

The Seller sells the Property to the Purchaser (which purchases the Property from the Seller) for the Purchase Price on the terms and conditions set out in this Agreement.

3. **OFFER OPEN FOR ACCEPTANCE**

3.1 This Agreement, upon signature thereof by the Purchaser, shall constitute an offer by the Purchaser to purchase the Property from the Seller for the Purchase Price and on the terms and conditions set out herein.

3.2 Such Offer shall be open for acceptance by the Seller for a period of 3 Business Days from the date on which the Purchaser signs this Agreement. Failure by the Seller to accept the offer to purchase, by countersigning the Agreement within 3 Business Days of receipt thereof, will result in the Offer and this Agreement lapsing and ceasing to be of any further force and effect.

4. **SUSPENSIVE CONDITIONS**

4.1 Except for clauses 1, 3, 4, 6, 8.1 and clauses 20 to 23 (and any other provision necessary to give effect to those clauses, all of which are separate and severable from the remaining provisions of the Agreement and shall be of full force and effect and operative from the Signature Date), the operation of this Agreement shall be subject to the suspensive conditions that by no later than:

4.1.1 the last day of the Due Diligence Period, the Purchaser provides the Seller with written confirmation that it is satisfied with the results of the due diligence investigation which it will be conducting in terms of clause 6, in respect of the Property;

4.1.2 30 Days after the Signature Date, the Seller has provided the Purchaser with confirmation that Tongaat Hulett has consented in writing to (i) the removal of the restrictive condition imposed in its favour in paragraph G (a) in Deed of Transfer No T 58953/2007 (the "**Restrictive Condition**") simultaneously with registration of transfer of the Property into the name of the Purchaser and (ii) the conclusion of a notarial deed or such other conveyancing documentation as may be required to give effect thereto, Or to the extent that Tongaat Hullett requires the Restrictive Condition to be carried forward and be binding on the Purchaser with effect from the Transfer Date, such conveyancing and other documentation as may be required to give effect thereto has been signed and the Purchaser has confirmed in writing that it has no objection to the Restrictive Condition being carried forward and being binding on it from the Transfer Date on the terms and conditions required by Tongaat Hullett;

4.1.3 30 Days after the Signature Date, the Purchaser has been granted such loan finance as the Purchaser may require in order to fund payment by the Purchaser of the Purchase Price in terms of this Agreement, on terms and conditions acceptable to the Purchaser.

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4.2 The due date/s for the fulfilment of any one or more of the Suspensive Conditions may be extended by the Parties by agreement in writing between the Parties provided that the periods contemplated in clauses 4.1.2 and 4.1.3 shall be automatically extended by a further period of 30 days.

4.3 If any of the Suspensive Conditions, referred to in clauses 4.1.1- 4.1.2, remain unfulfilled and the fulfilment thereof is not waived by the Seller by the due date from the fulfilment thereof (or any automatic or agreed extended date), then the Agreement will be of no force and effect and:

4.3.1 to the extent that this Agreement may have been partially implemented, the Parties must as far as possible be restored to the positions they were in prior to the Signature Date;

4.3.2 no Party will have any claim against the other arising out of or in connection with this Agreement.

5. **PURCHASE PRICE**

5.1 The Purchase Price for the Property is R25 000 200,00 (Twenty Five Million Two Hundred Rand) plus VAT in an amount of R 3 750 030,00 (Three Million Seven Hundred and Fifty Thousand and Thirty Rand) payable to the Seller on the Transfer Date. This figure was arrived at by multiplying the Bulk of 8 170 (Eight Thousand One Hundred and Seventy) metres squared attributable to the Property by R3 060,00 (Three Thousand and Sixty Rand) per Bulk metre squared.

5.2 Payment of the Purchase Price together with VAT thereon must be secured by the Purchaser by lodging a bank guarantee for the full Purchase Price, plus VAT, with the Conveyancers within 20 Days of the Effective Date.

5.3 The guarantee referred to in clause 5.2 shall be from a South African bank and on terms and conditions reasonably acceptable to the Seller, in favour of the holders of any mortgage bonds registered over the Property, drawn and payable:

5.3.1 on a South African bank;

5.3.2 on cancellation of any existing mortgage bond/s over the Property;

5.3.3 on registration of transfer of the Property by the Seller into the name of the Purchaser; and

5.3.4 on registration of a new mortgage bond in favour of the bank that grants the Purchaser such loan finance as the Purchaser may require.

5.4 The Purchaser shall (to the extent required by the Purchaser) be registering a mortgage bond over the Property simultaneously with transfer of the Property to the Purchaser.

5.5 All payments in terms of or arising out of this Agreement must be made without demand and free of all charges to the Party entitled to payment.

6. **DUE DILIGENCE**

6.1 During the Due Diligence Period, the Purchaser may undertake a due diligence investigation into the Property.

6.2 The Seller undertakes throughout the Due Diligence Period to:

6.2.1 co-operate with the Purchaser, its authorised representatives, employees, attorneys and auditors (together "the Purchaser's Team");

6.2.2 make available and, where required, provide copies to the Purchaser's Team of all documents, books, records, electronic data and information requested by the Purchaser for the purpose of the due diligence investigation; and

6.2.3 ensure that the Seller, its officers, employees, agents, auditors and advisers answer questions from the Purchaser's Team and provide all information and documents that may be required by the Purchaser's Team, in both instances within 48 hours of request.

6.3 The Purchaser undertakes to keep all information disclosed to it for the purposes of the due diligence investigation strictly confidential and undertakes not to use such information or disclose any such information to any person, other than the Purchaser's Team who are required to consider and evaluate it. This undertaking does not apply to any information which is not confidential or is public knowledge or which is or falls into the public domain through no fault of the Purchaser.

7. TRANSFER OF THE PROPERTY

7.1 Transfer shall be effected within a reasonable time after the Effective Date and:

7.1.1 the Parties must ensure that their tax affairs are up to date as required by SARS to facilitate prompt issue by SARS of the transfer duty receipt or transfer duty exemption receipt (as the case may be) required for the purposes of effecting Transfer;

7.1.2 the Seller must do everything required to enable the Municipality to promptly issue a rates clearance certificate for the Property including but not limited to paying all rates and taxes (including all arrear rates and taxes) as are payable to the Municipality to procure the issue of such rates clearance certificate; and

7.1.3 the Seller must do everything required to enable the Association to promptly issue a clearance certificate for the Property including but not limited to paying all levies (including all arrear levies) as are payable to the Association to procure the issue of such clearance certificate.

7.2 Each Party must, within 7 Days after being called upon to do so by the Conveyancers, sign all documents required to be signed and furnish all documents required to be furnished by that Party to enable Transfer. The Parties acknowledge and agree that they shall be obliged to sign such notarial deed/s and/or other conveyancing documentation as may be required to procure that the provisions of clause 4.1.2 are given effect to on the Transfer Date, which notarial deed/s and/or other conveyancing documentation shall be registered simultaneously with registration of transfer of the Property into the name of the Purchaser.

8. OCCUPATION AND RISK

8.1 The Seller agrees from the Signature Date to grant the Purchaser and its agents reasonable access to the Property by pre-arrangement with the Seller, at all reasonable times, for purposes of investigation, survey, soil testing, environmental and planning investigations, and any other investigations which the Purchaser may in its sole discretion deem necessary.

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8.2 On the Transfer Date the Seller must give the Purchaser vacant occupation of the Property.

8.3 With effect from the Transfer Date:

8.3.1 all the benefit and risk of ownership of the Property will pass to the Purchaser;

8.3.2 the Purchaser is liable for all rates, taxes and other charges levied on the Property;

8.3.3 the Purchaser is liable for all levies to the Association.

9. **PURCHASER'S ACKNOWLEDGMENTS AND UNDERTAKINGS**

9.1 The Purchaser:

9.1.1 acknowledges that it is aware of the intended future development of the Town Centre by Tongaat Hulett and that such development is intended to involve the establishment of high quality business and commercial premises and residential dwellings on various portions of the Town Centre and so designed as to facilitate an aesthetic and harmonious blending with the environment;

9.1.2 undertakes that it will not, without reasonable grounds for doing so:

9.1.2.1 interfere with any such proposed development; nor

9.1.2.2 lodge any objection with any competent authority in respect of any such development;

9.1.3 agrees that it will not, without reasonable grounds for doing so, object to any application made by or on behalf of Tongaat Hulett, its nominee or agent for special usage consent, licences for shopping, commercial or filling station rights, rezoning, removal of conditions of title under the Removal of Restrictive Conditions Act or by way of any application to Court or to any local or other competent authority in respect of any property within the Town Centre;

9.1.4 specifically acknowledges that it is aware that owners of land surrounding the Property will be erecting buildings or other structures on such surrounding land which may block or otherwise interfere with the views from the Property and the Purchaser agrees that it shall have no right, without reasonable cause, to object to the construction of any building or other structure on land in the Town Centre on the basis that such building or other structure blocks or otherwise interferes with the views from the Property, nor will it have any claim for any alleged diminution in the value of the Property arising out of any interference with the views from the Property by reason of the construction of any such building or structure where it has been afforded an opportunity to object thereto and has not, on reasonable grounds, objected thereto;

9.1.5 acknowledges that no buildings or alterations or extension to any existing buildings or any other structures may be erected on the Property other than in accordance with plans approved by the Association acting through the Design Review Committee and the Purchaser agrees that it will have no claim whatsoever, arising out of whatever cause, against the Association, any members of the Design Review Committee or Tongaat Hulett or the Seller for any loss suffered by reason of the Design Review Committee refusing to approve or delay the approval of any plans submitted by the Purchaser save where the Purchaser can prove mala fides on the part of the Design Review Committee or where the decision was not made in accordance with the Association's

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Memorandum of Incorporation as read with the Development Manual and the Architectural Controls;

10. **COSTS**

10.1 The Purchaser is liable for, and must on receipt of an account from the Conveyancers pay:

10.1.1 the legal costs of and incidental to Transfer other than those specified in clause 10.2;

10.1.2 VAT payable on the costs payable by the Purchaser in terms of this clause 10.1.

10.2 Any costs in connection with the cancellation of existing bonds, of the registration of the notarial deed/s and/or other conveyancing documentation contemplated in clause 7.2 and of any other rights which require to be cancelled to enable Transfer, the amendment or replacement of the Seller's title deed or the withdrawal of judicial attachments, interdicts, caveats or other bars to Transfer, shall be borne and paid for by the Seller.

10.3 Each Party is liable for its own legal costs of and incidental to the negotiation, drafting, settlement and signature of this Agreement.

11. **LEVIES TO ASSOCIATION**

11.1 From the Transfer Date, the Purchaser shall be responsible to pay a monthly levy to the Association as contemplated in the Memorandum of Incorporation of the Association.

11.2 The monthly levy payable to the Association shall be calculated in accordance with the provisions of the Memorandum of Incorporation of the Association.

12. **MEMBERSHIP OF THE UMHLANGA RIDGE TOWN CENTRE MANAGEMENT ASSOCIATION NPC**

The Purchaser acknowledges that it shall be obliged to become and remain a Member of the Association from the Transfer Date and the Purchaser undertakes to comply in every respect with the Association's Memorandum of Incorporation and the rules made in terms thereof at all times, and to ensure that any person who comes upon the Property, or the Town Centre by virtue of the Purchaser's rights thereto, does likewise.

13. **RULES OF THE ASSOCIATION**

13.1 The Purchaser acknowledges that the Directors have the power to make rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Town Centre, for the purposes of giving proper effect to the provisions of the Memorandum of Incorporation of the Association and for any other purpose, which powers shall include the right to impose reasonable financial penalties to be paid by those members who fail to comply with the provisions of the Memorandum of Incorporation or the rules.

13.2 The Purchaser acknowledges that, subject to the provisions of this Agreement, the Memorandum of Incorporation and the Development Manual, the Directors shall be entitled at all times to lay down rules in regard to -

13.2.1 the preservation of the natural environment;

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13.2.2 vegetation and flora and fauna in the Town Centre;

13.2.3 the placing of movable objects upon or outside the buildings included in the Town Centre, including the power to remove any such objects;

13.2.4 the storing of flammable and other harmful substances;

13.2.5 the conduct of any persons within the Town Centre and the prevention of nuisance of any nature to any owner of immovable property in the Town Centre;

13.2.6 the use of land within the Town Centre having regard to the intended retail, commercial and mixed use of the Town Centre, (including but in no way limited to, the level of noise emanating from the use of the property and the parking and traffic implications of same);

13.2.7 the use of roads, pathways and open spaces;

13.2.8 the imposition of fines and other penalties to be paid by members of the Association;

13.2.9 the management, administration and control of the common areas and open spaces;

13.2.10 the design guidelines for the erection of all buildings and other structures, including service connections to buildings;

13.2.11 the design guidelines for the establishment, installation and maintenance of gardens, both public and private;

13.2.12 the use by owners and their tenants of buildings and other structures and the upkeep, aesthetics and maintenance of such buildings;

13.2.13 the use of adjoining sidewalks, road frontages and parking areas;

13.2.14 security; and

13.2.15 generally in regard to any other matter which the Directors of the Association from time to time consider appropriate and in the best interests of its members, and the Purchaser undertakes and shall be obliged, with effect from the Transfer Date, to abide by such rules as if it was the owner of the Property and to ensure that all tenants, nominees, invitees and other persons who occupy or enter upon the Property and its surrounds by virtue of the Purchaser's rights thereto, do likewise.

13.3 The Purchaser shall be obliged to bring the rules to the attention of any tenant prior to such tenant taking possession of the Property or any portion thereof.

14. **MUNICIPAL SERVICES**

The Purchaser acknowledges that should the Municipality or any other service provider not have the means, or be unwilling, or agree to delegate the obligation to the Association, to maintain or provide municipal services within the Town Centre, the Association may, if the Association in its sole discretion deems it appropriate, take over the responsibility for providing and maintaining such services and/or enhanced services.

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15. **ELECTRICAL COMPLIANCE CERTIFICATE**

The Seller shall not be obliged to procure the issue of a Compliance Certificate by virtue of the Property being unimproved.

16. **AGENT'S COMMISSION**

No agents commission is due by either Party on this transaction.

17. **WARRANTIES**

17.1 The Seller warrants with regards to the Property that:

17.1.1 the Property is beneficially owned by the Seller which will be able to give free and unencumbered title thereof to the Purchaser in accordance with the provisions of the Agreement;

17.1.2 no person will on the Transfer Date, have any rights of acquisition (including options, rights of pre-emption or rights of first refusal) in respect of the Property nor any right to encumber the Property (save to the extent contemplated in clause 4.1.2);

17.1.3 no legal action has been instituted against the Seller and the Seller has no knowledge of any contemplated legal action in terms whereof the Property may be attached and the transfer thereof may be interdicted;

17.1.4 the Property is not and, on the Transfer Date, will not be subject to any leases or other rights of occupation in favour of any person;

17.1.5 no part of the Property is occupied by any illegal occupant;

17.1.6 the Property is not contaminated and/or polluted arising from any activity conducted on or about the Property by the Seller and/or any of its predecessors in title and/or their respective invitees or otherwise howsoever and the Purchaser will not incur any liability, obligation or penalty of whatever nature in terms of the National Environmental Management Act 1998 and/or any other law relating to the maintenance and/or protection of the natural environment by virtue of its ownership of the Property;

17.1.7 the Property is not and, on the Transfer Date, will not be subject to any unregistered servitudes or other unregistered real rights;

17.1.8 the Bulk attributable to the Property is 8 170 square metres;

17.1.9 to the knowledge of the Seller, the Property is not land in respect of which any person may make a claim (or has made a claim which is unresolved) as envisaged in the Restitution of Land Rights Act, No. 22 of 1994 (as amended) or any other similar claims;

17.1.10 no public road has been declared over the Property;

17.1.11 there is no proposal to amend the zoning of the Property.

17.2 For the purposes hereof, "knowledge" includes all matters in respect of which the Seller has actual knowledge or could, through making reasonable enquires in this regard, have acquired actual

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knowledge. Furthermore, a matter shall be regarded as material if its disclosure prior to the Signature Date would have caused the Purchaser, acting reasonably, not to have entered into the Agreement either at all or on the terms and conditions set out in the Agreement. The Parties record and agree that a breach by the Seller of the warranty contained in clause 17.1.2 shall be a material breach of this Agreement.

17.3 The warranties provided herein shall be given as at the Signature Date and the Transfer Date (save unless expressly stated or where clearly inappropriate).

18. **NOMINATION OF NEW PURCHASER**

18.1 The Purchaser shall be entitled, no later than 7 Days from the Effective Date, to nominate a third party as purchaser, in whole or in part, under this Agreement in its place and stead ("the Second Purchaser") in which event the Seller hereby agrees that this sale to the Purchaser shall be cancelled with effect from the date of signature of a new sale agreement between the Seller, on the one part, and the Second Purchaser and (where the Purchaser has nominated a third party to assume its obligations in part) the Purchaser, on the other part, on the same terms and conditions, mutatis mutandis, as set out in this Agreement save that-

18.1.1 the purchaser shall be defined as the person who is the Second Purchaser and (where the Purchaser has nominated a third party to assume its obligations in part) the Purchaser;

18.1.2 any cancellation and new sale is subject to the condition that:

18.1.2.1 the Second Purchaser must be in existence on the date of the new sale;

18.1.2.2 there are no suspensive conditions in the new sale.

18.2 The Parties undertake to forthwith do all things within their respective powers to ensure the signature of the new sale agreement occurs within 7 Days of date of acceptance of the nomination by the Second Purchaser.

18.3 It is recorded that:

18.3.1 no consideration shall be payable to any person in respect of the cancellation of this Agreement;

18.3.2 the Seller shall not receive any amounts from the Purchaser (whether in respect of the purchase price payable under this Agreement or otherwise), which will require to be refunded as a result of the cancellation of this Agreement.

19. **MUTUAL WARRANTIES AND REPRESENTATIONS**

Each Party hereby represents and warrants to the other that:

19.1 it has the requisite power to enter into this Agreement and to exercise its rights and perform its obligations hereunder;

19.2 all authorities or other actions required to authorise its execution of this Agreement and its performance of its obligations hereunder have been duly taken;

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19.3 the execution of this Agreement and its exercise of its rights and performance of its obligations hereunder do not constitute and will not, to the best of its knowledge and belief, result in any breach of any agreement, law or treaty;

19.4 this Agreement is executed by its duly authorised representative;

19.5 all acts, conditions and other things required to be done, fulfilled and performed in order:

19.5.1 to enable it lawfully to enter into, exercise its rights under and perform its obligations expressed to be assumed by it in this Agreement;

19.5.2 to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid and binding; and

19.5.3 to make this Agreement admissible in evidence in South Africa,

have been done, fulfilled and performed.

20. **DISPUTE RESOLUTION**

20.1 In the event of there being any dispute or difference between the Parties arising out of this Agreement, the Parties shall use their respective best endeavours and efforts to resolve any such dispute through mutual consultation, without involving third parties.

20.2 If following such mutual consultation the dispute still remains outstanding within 10 (ten) Business Days after the date of referral in writing, then, unless otherwise provided for, the said dispute or difference shall on written demand by either Party be submitted to arbitration in Johannesburg in accordance with the AFSA rules, which arbitration shall be administered by AFSA

20.3 Should AFSA, as an institution, not be operating at that time or not be accepting requests for arbitration for any reason, then the arbitration shall be conducted in accordance with the AFSA rules for commercial arbitration (as last applied by AFSA) before an arbitrator appointed by agreement between the Parties or failing agreement within 10 (ten) Business Days of the demand for arbitration, then any Party shall be entitled to forthwith call upon the chairperson of the Johannesburg Bar Council to nominate the arbitrator, provided that the person so nominated shall be an advocate of not less than 10 (ten) years standing as such. The person so nominated shall be the duly appointed arbitrator in respect of the dispute. In the event of the attorneys of the Parties failing to agree on any matter relating to the administration of the arbitration, such matter shall be referred to and decided by the arbitrator whose decision shall be final and binding on the Parties.

20.4 Any Party may appeal the decision of the arbitrator or arbitrators in terms of the AFSA rules for commercial arbitration.

20.5 Nothing herein contained shall be deemed to prevent or prohibit a Party from applying to the appropriate court for urgent relief or for judgment in relation to a liquidated claim.

20.6 Any arbitration in terms of this clause 20 (including any appeal proceedings) shall be conducted *in camera* and the Parties shall treat as confidential details of the dispute submitted to arbitration, the conduct of the arbitration proceedings and the outcome of the arbitration.

20.7 This clause 20 will continue to be binding on the Parties notwithstanding any termination or cancellation of the Agreement.

21. **BREACH**

21.1 If either Party breaches any provision of this Agreement and remains in breach for 14 days after receipt of written notice by such Party requiring that Party to rectify that breach, the other Party shall be entitled at that Party's option:

21.1.1 to sue for the immediate specific performance of any or all the defaulting Party's obligations under this Agreement whether or not any such obligation is then due; or

21.1.2 (either as an alternative to a claim for specific performance or upon the abandonment of such a claim) to cancel this Agreement. Written notice of such cancellation shall be given to the defaulting Party and the cancellation shall take effect on the giving of such notice.

21.2 In the event of either Party cancelling this Agreement in terms of the preceding sub-clause, the aggrieved Party shall be entitled to claim damages suffered related to such cancellation.

21.3 The Parties' remedies in terms of this clause are without prejudice to any other remedies to which the Parties may be entitled in law.

21.4 The Parties acknowledge and agree that, in the event of registration of transfer of the Property into the name of the Purchaser being delayed by virtue of a third party (i) laying claim to the Property and/or (ii) claiming that the Seller has undertaken to sell the Property to such third party and/or (iii) seeking to prevent and/or interdict the transfer to the Purchaser by virtue of any alleged act or omission on the part of the Seller, the Purchaser shall be entitled to:

21.4.1 withdraw any guarantee issued on its behalf to secure payment of the Purchaser Price and shall only be obliged to again provide the Seller with a guarantee to secure payment of the Purchase Price once it has been provided with such documentary evidence as the Purchaser may reasonably require that such third party claim will no longer delay transfer; or

21.4.2 proceed in accordance with clause 21.1 (for which purposes the Seller shall be deemed to be in breach of its obligations in terms of this Agreement).

22. **NOTICES AND ADDRESSES FOR SERVICE**

22.1 Unless otherwise specified any notice or communication in terms of this Agreement:

22.1.1 must be in writing to be effective;

22.1.2 must be sent by hand, registered post or e-mail to the addresses below, which physical addresses the Parties select as their respective domicilium citandi et executandi:

22.2 Unless otherwise specified any notice or communication in terms of this Agreement:

22.2.1 must be in writing to be effective;

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22.2.2 must be sent by hand, registered post or e-mail to the addresses/ numbers below, which physical addresses the Parties select as their respective domicilium citandi et executandi:

the Seller	2nd Floor, West Tower, Maude Street, Nelson Mandela Square, Sandton. 2196. RSA. PO Box 785553, Sandton. 2146. E-mail: mbuso.dlamini@palacegroup.co.za
the Purchaser	96 Raymond Mhlaba Street, Naval View, Bloemfontein, 9300 Email: michael@georgiou.co.za

22.3 A Party may change its address to any other address within South Africa. Such change will only take effect upon receipt or deemed receipt of such notice by the other Party.

22.4 Any notice or communication shall:

22.4.1 if delivered by hand during business hours to the person apparently in charge of the Property selected by the addressee for the delivery of notices, be deemed to have been received on the date of delivery;

22.4.2 if sent by registered post to the selected address, be deemed to have been received 6 days after posting; and

22.4.3 if sent by e-mail to the selected e-mail address of the addressee, be deemed to have been received on the first business day following the date on which it has been transmitted from the information system under the control of the sender.

22.5 Any written notice or communication which has actually been received by a Party shall be regarded as sufficient notice even if it has not been sent in the manner or to the address number provided for above.

23. **MISCELLANEOUS LEGAL PROVISIONS**

23.1 This is the whole agreement between the Parties containing all of the express provisions agreed on by the Parties with regard to the subject matter hereof.

23.2 No Party may rely on any representation which allegedly induced that Party to enter into this Agreement, unless the representation is recorded herein.

23.3 No agreement varying, adding to, deleting from or cancelling this Agreement (including this clause) and no waiver of any right under this Agreement shall be effective unless in writing and signed by or on behalf of the Parties.

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23.4 No relaxation by a Party of any of its rights in terms of this Agreement at any time shall prejudice or be a waiver of its rights (unless it is a signed written waiver) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.

23.5 No Party may cede, delegate, assign or sub-contract any of its rights or obligations in terms of this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld.

23.6 This Agreement may be signed by the Parties in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement.

23.7 This Agreement shall be binding on and shall inure for the benefit of the successors and assigns and personal representatives (as the case may be) of each of the Parties.

23.8 Since the provisions of this Agreement have been settled by negotiation and each Party has been free to secure independent legal advice, the rule of construction that clauses must be interpreted against the Party principally responsible for drafting does not apply.

23.9 Each of the Parties acknowledges and agrees that all of the provisions of this Agreement and the restrictions herein contained are fair and reasonable in all the circumstances and are in accordance with the Parties' intentions.

23.10 Where an expression has been defined and such definition contains a provision conferring a right or imposing an obligation on any Party, then notwithstanding that it is contained only in a definition, effect must be given to that provision as if it were a substantive provision contained in the body of this Agreement.

23.11 Words or expressions defined in any particular clause in the body of this Agreement must bear the meaning so assigned to it throughout this Agreement unless the context indicates otherwise.

23.12 The *eiusdem generis* rule does not apply so that whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "including" and specific examples, such examples must not be construed so as to limit the general ambit of the provision concerned.

23.13 A reference to any legislation (including statutes, ordinances, regulations and by-laws) must be construed as a reference to that legislation as at the date of signature of this Agreement and as may be amended or re-enacted or substituted from time to time.

23.14 A reference to any statutory body or court or to any association for the purposes appointing an expert or arbitrator must be construed as a reference to that statutory body or court or association as at the date of signature and any successor.

23.15 A reference to any legal principle, doctrine or process under South African law includes a reference to the equivalent or analogous principle, doctrine or process in any other jurisdiction in which the provisions of this Agreement may apply or to the laws of which a Party may be or become subject.

23.16 The expiration or termination of this Agreement does not affect such of its provisions which of necessity must continue to apply after such expiration or termination.

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23.17 Headings of clauses are inserted for the purpose of convenience only and must be ignored in the interpretation of this Agreement.

23.18 Unless inconsistent with the context, words signifying any one gender will include the others, words signifying the singular will include the plural and vice versa and words signifying natural persons will include artificial persons and vice versa.

23.19 Any reference to an amount in this Agreement means that amount is exclusive of VAT unless specified otherwise.

23.20 The various documents forming part of this Agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the Agreement will prevail.

23.21 Each and every provision of this Agreement (excluding only those provisions which are essential at law for a valid and binding Agreement to be constituted) shall be deemed to be separate and severable from the remaining provisions of this Agreement. If any of the provisions of this Agreement (excluding only those provisions which are essential at law for a valid and binding Agreement to be constituted) is found by any court of competent jurisdiction to be invalid and/or unenforceable then, notwithstanding such invalidity and/or unenforceability, the remaining provisions of this Agreement shall be and remain of full force and effect.

23.22 Each Party must bear its own legal costs incidental to the negotiation, preparation and implementation of this Agreement.

23.23 Any costs incurred by a Party arising out of the breach by any other Party of the any of the provisions of this Agreement must be borne by the Party in breach on an attorney and own client scale.

SIGNED at SANDTON on this the 21st day of AUGUST 2018

For and on behalf of
THE MICHAEL FAMILY TRUST

Signatory: MICHAEL NICOLAS GEORGIOU
Capacity: TRUSTEE
Who warrants his authority hereto

SIGNED at _____ on this the _____ day of _____20__.

For and on behalf of
PEG HR SOLUTIONS PROPRIETARY LIMITED

Signatory:
Capacity:
Who warrants his authority hereto

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RESOLUTION PASSED BY THE DIRECTORS OF PEG HR SOLUTIONS PROPRIETARY LIMITED, REGISTRATION NUMBER 2003/025572/07 (the **Company**)

HELD AT

ON THE

WHEREAS:

1. The Company is the registered owner of Erf 2583 Umhlanga Rocks Township, Registration Division FU, the Province of KwaZulu-Natal, in extent 4 971 square metres (the **Property**).

2. The Michael Family Trust, Registration Number TMP 2502/1997 (the **Trust**) and the Company intend to conclude a sale agreement, in terms of which, *inter alia*, the Company will sell the Property to the Trust for a purchase price of R 25 000 200,00 (twenty five million two hundred Rand) plus VAT (the **Sale Agreement**).

IT WAS ACCORDINGLY RESOLVED THAT:

1. The Company concludes the Sale Agreement with the Trust.

2. _____ (the **Signatory**) in his/her capacity as duly authorised representatives of the Company be and are hereby authorised and empowered to:

2.1 negotiate the final terms and conditions of the Sale Agreement;

2.2 sign the Sale Agreement and all other deeds or documents which may be necessary for the implementation of the Sale Agreement; and

2.3 generally do everything that may be necessary for the implementation of the Sale Agreement;

and any agreement, deeds or documents signed by the said Signatory, acting under authority of this resolution, shall conclusively be deemed to be the agreement, deeds and documents authorised by this resolution.

_____

EPHRRAIM MBUSO DLAMINI
Director

SPECIAL RESOLUTION

in terms of

Sections 112 & 115 of the Companies Act, No. 71 of 2008 (the **Act**)

PASSED BY THE SHAREHOLDERS OF PEG HR SOLUTIONS PROPRIETARY LIMITED, REGISTRATION NUMBER 2003/025572/07 (the **Company**)

HELD AT

ON THE

WHEREAS:

1. The Company is the registered owner of Erf 2583 Umhlanga Rocks Township, Registration Division FU, Province of KwaZulu-Natal, in extent 4 971 square metres (the **Property**).

2. The Company intends to conclude a sale agreement with the Michael Family Trust, Registration Number TMP 2502/1997 (or its nominee) (the **Trust**), in terms of which the trust will purchase the Property from the Company for a purchase price of R25 000 200, 00 (twenty five million two hundred Rand) plus VAT (the **Sale Agreement**).

3. The Property constitutes the whole or the greater part of the assets or undertaking of the Company and accordingly the consent of the shareholders of the Company is required for the conclusion of the Sale Agreement (as contemplated in Section 112, read with Section 115, of the Act).

IT WAS ACCORDINGLY UNANIMOUSLY RESOLVED THAT:

1. Notice of the meeting having been given and all of the shareholders of the Company being present, it was unanimously agreed that:

1.1. the prescribed minimum notice period for this meeting as contemplated in Section 62(2A) of the Act, be and is hereby waived;

1.2. any defects in the provision of notice for the meeting be and are hereby ratified as contemplated in Section 62(4) of the Act;

1.3. in accordance with Sections 112 and 115 of the Act, the disposal by the Company of all or a greater part of its assets and/or undertaking as set out in the Sale Agreement to be concluded between the Company and the Trust and any documents ancillary thereto, be and is hereby approved.

Names of the Shareholders of Peg HR Solutions Proprietary Limited:

_____

_____

_____

_____

To be signed by each and every Shareholder

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BUNDLE 8

PAYMENTS AFFECT INDEBTEDNESS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Local Division, Johannesburg

CASE NO: **2024-092685**

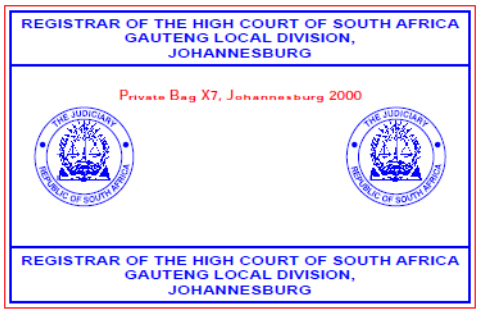
In the matter between:

FIRSTRAND BANK LIMITED	Plaintiff / Applicant / Appellant
and	
Ephraim Dlamini ,EPHRAIM MBUSO DLAMINI	Defendant / Respondent

---

Annexure 11

NOTE: **This document was filed electronically by the Registrar on 22/5/2025 at 10:56:52 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of High Court , Gauteng Local Division,Johannesburg

SCHEDULE OF PAYMENTS MADE TO RMB FROM INCEPTION TO DATE		
Date	**Description**	**Payment Made to RMB**
Monday, 09 May 2011	Payment by PEG HR, bank transfer	R 1 500 000,00
Monday, 20 June 2011	Payment by PEG HR, bank transfer	R 1 500 000,00
Saturday, 17 September 2011	Payment by PEG HR, bank transfer	R 1 156 283,96
Monday, 03 October 2011	Payment by PEG HR, bank transfer	R 372 618,54
Friday, 14 October 2011	Payment by PEG HR, bank transfer	R 373 742,32
Tuesday, 01 November 2011	Payment by PEG HR, bank transfer	R 385 197,39
Thursday, 01 December 2011	Payment by PEG HR, bank transfer	R 447 692,32
Tuesday, 03 January 2012	Payment by PEG HR, bank transfer	R 466 037,50
Wednesday, 01 February 2012	Payment by PEG HR, bank transfer	R 469 599,79
Thursday, 01 March 2012	Payment by PEG HR, bank transfer	R 456 55[illegible],00
Saturday, 03 March 2012	Payment by PEG HR, bank transfer	R 2 333 6[illegible]5
Wednesday, 28 March 2012	Payment by PEG HR, bank transfer	R 5 000 000,00
Monday, 02 April 2012	Payment by PEG HR, bank transfer	R 4 500 000,00
Wednesday, 02 May 2012	Payment by PEG HR, bank transfer	R 375 714,03
Tuesday, 31 July 2012	Payment by PEG HR, bank transfer	R 3 000 000,00
Wednesday, 01 August 2012	Payment by PEG HR, bank transfer	R 698,63
Wednesday, 01 August 2012	Interest Capitalisation	R 6 762,18
Friday, 31 August 2012	Payment by PEG HR, bank transfer	R 2 000 000,00
Saturday, 01 September 2012	Interest Capitalisation	R 10 232,34
Sunday, 02 September 2012	Payment by PEG HR, bank transfer	R 335,87
Monday, 01 October 2012	Interest Capitalisation	R 9 990,66
Thursday, 01 November 2012	Interest Capitalisation	R 10 412,78
Wednesday, 07 November 2012	Payment by PEG HR, bank transfer	R 500 000,00
Wednesday, 07 November 2012	Payment by PEG HR, bank transfer	R 400 000,00
Wednesday, 07 November 2012	Payment by PEG HR, bank transfer	R 9 158,02
Wednesday, 11 December 2013	Payment by PEG HR, bank transfer	R 285 000,00
Wednesday, 01 January 2014	Interest Capitalisation	R 1 721,70
Saturday, 01 February 2014	Interest Capitalisation	R 2 564,81
Monday, 03 July 2017	Payment by PEG HR, bank transfer	R 251 173,02
Tuesday, 01 August 2017	Payment by PEG HR, bank transfer	R 241 125,38
Friday, 01 September 2017	Payment by PEG HR, bank transfer	R 254 530,55
Sub-total		**R 26 320 792,34**
2017/04/03	Proceeds from sale of erven 2579, 2580, 2582	R 70 323 200,00
	GRAND TOTAL PAID BY PEG HR SOLUTIONS TO RMB TO DATE	**R 96 643 992,34**
Tuesday, 30 June 2015	F 1287, FA24 page 230	R 20 000 000,00
	GRAND TOTAL PAID BY PEG HR SOLUTIONS & F 1287 TO RMB TO DATE	**R 116 643 992,34**

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Local Division, Johannesburg

CASE NO: **2024-092685**

In the matter between:

FIRSTRAND BANK LIMITED Plaintiff / Applicant / Appellant

and

Ephraim Dlamini ,EPHRAIM MBUSO DLAMINI Defendant / Respondent

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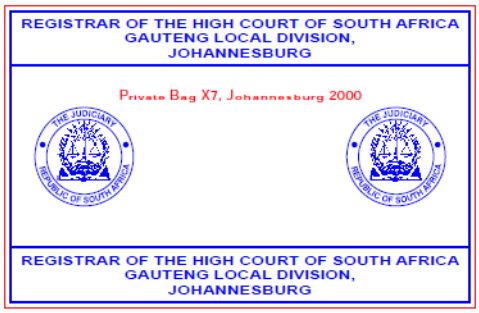
Annexure 05

NOTE: **This document was filed electronically by the Registrar on 22/5/2025 at 10:52:42 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of High Court , Gauteng Local Division,Johannesburg

1 Merchant Place Cnr Fredman Dr & Rivonia Rd Sandton 2196
PO Box 786273 Sandton 2146 South Africa
Switchboard +27 11 282-8000
Facsimile +27 11 282-8008
www.rmb.co.za

Reg No. 1929/001225/06
An Authorised Financial Services Provider

RAND MERCHANT BANK
A division of FirstRand Bank Limited

Mr. Mbuso Dlamini, Friedshelf 1287 (RF) Proprietary Limited and the Mbuso Dlamini Family Trust
(collectively the "Dlamini Entities")
3rd Floor
China Construction Bank Building
95 Grayston Drive
Sandton

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

AMENDMENT TO CURRENT FUNDING ARRANGEMENT

Dear Mr. Mbuso Dlamini,

Introduction

We refer to Loan Facility Agreement, Class "A" Preference Share Subscription Agreement and Class "B" Preference Share Subscription Agreement between FirstRand Bank Limited and Friedshelf 1287 (RF) Proprietary Limited (collectively the "Facility Agreements") signed on or about 13 December 2011. Capitalised terms used but not defined herein shall have the same meanings given to those terms in the Facility Agreements.

Rand Merchant Bank, a division of FirstRand Bank Limited ("RMB"), has considered the Dlamini-Entities' request for additional liquidity against the investment in ordinary shares and Associated Instruments (as defined in the Actom Investment Holdings (Pty) Ltd Shareholders Agreement) (collectively the "Actom Investment") held by the Dlamini Entities in Actom Investment Holdings (Pty) Ltd ("Actom").

RMB understands that the Dlamini Entities are looking for an additional R25 million of funding against the Actom Investment.

RMB would be willing to advance an additional R26 million of funding against the Actom Investment under the existing Facility Agreements, subject to the amendments of the Facility Agreements as set-out in Annexure A to this letter. This additional advance and amendment to the Facility Agreements will result in an additional fee of R750,000 and a change in Dividend Rights of the Class "B" Preference Shares as contained in Annexure A. Up to R250,000 of the facility will be available to fund pre-agreed directly associated legal fees and cost incurred but the Dlamini Entities pursuant to the amendment of the funding arrangement.

RMB will advance the R26 million on the condition that it will be utilized to repay the PEG HR facility owed to RMB (R20m), Rates & Taxes to Ethekwini Municipality (R5m) as well as a facility fee to RMB (R750,000). These payments will be paid directly from the Friedshelf 1287 (RF) Proprietary Limited bank accounts held by RMB to RMB (R20.75m), Ethekwini Municipality (R5m) and lawyers and service providers up to R250,000 (most efficient structure to be agreed).

Directors: G T Ferreira (Chairman) S E Nxasana (Chief Executive Officer) V W Bartlett J P Burger L L Dippenaar D M Falck P M Goss P K Harris W R Jardine E G Matenge-Sebesho Z B Ntsaluba R K Store B J van der Ross R A Williams Company Secretary: B W Unser

RMB Divisional Board: P K Harris (Chairman) M W Pfaff (Chief Executive Officer) L P Collet (Chief Strategic Officer) M G Field (Chief Financial Officer) P R Gent (Chief Operating Officer) D N Prout-Jones (Chief Investment Officer) J P Burger D J A Craig S Das L L Dippenaar G T Ferreira D A Frankel P M Goss R P Gouws S E Nxasana K Pillay S E N Sebotsa R K Store

This letter shows the indicative terms on which RMB would consider providing the required funding.

Implementation

The final implementation of this transaction is subject to the suspensive conditions listed in Annexure A.

Acceptance

Following acceptance of this offer, the parties will dedicate significant time and resources to concluding the transaction. By signing the term sheet, you agree to pursue the transaction in good faith and you grant exclusivity to RMB to conclude the transaction or a similar transaction from the date of signature of this letter.

By signing this letter you also authorise RMB to engage with Actom and the Actom shareholders to obtain the necessary approvals (to the extent required) for the amendment of the funding arrangements as set-out in this letter. However, obtaining the relevant Actom board and shareholder approvals remain the responsibility of the Dlamini Entities

We trust that the above terms and conditions will be acceptable to all parties to this transaction.

The provisions and undertakings of this letter will only be valid if it is signed by both parties on or before 14 February 2014.

Should you wish to discuss the contents of this term sheet further, please do not hesitate to contact Neels Els on (011) 282 8176 or Shamal Mahabir on (011) 282 4542.

Yours sincerely,

NEELS ELS
For and on behalf of
FirstRand Bank Limited
(acting through its Rand Merchant Bank division)

For and on behalf of
FirstRand Bank Limited
(acting through its Rand Merchant Bank division)

Mr. Mbuso Dlamini, acting on behalf of the Mbuso Dlamini Family Trust
Who hereby warrants that he is duly authorised

EPHRAIM MBUSO DLAMINI acting on behalf of the Mbuso Dlamini Family Trust
Who hereby warrants that he/she is duly authorised

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

Mr. Mbuso Dlamini

Mr. Mbuso Dlamini, acting on behalf of Friedshelf 1287 (RF) Proprietary Limited
Who hereby warrants that he is duly authorised

EPHRAIM MBUSO DLAMINI acting on behalf of Friedshelf 1287 (RF) Proprietary Limited
Who hereby warrants that he/she is duly authorised

Annexure A: Amendments to the Finance Documents and key salient terms

Additional Advance	Up to a maximum of R26 million additional advance under the Loan Facility Agreement
Interest rate	2% above FNB Prime overdraft rate ("Prime") (NACM) (as per the existing Loan Facility Agreement)
Non-refundable Structuring Fee on Additional Advance	R750 000 plus VAT
Relevant Percentage	This will be amended from "13.2%*" to "19.25%" * Please note that this percentage was originally 12% but was subsequently adjusted to an effective rate of 13.2% in terms of an adjustment notice sent to Friedshelf 1287 (RF) Proprietary Limited on 8 March 2012 with the abolishment of STC and the introduction of Dividend Tax.
Dividend Rights of the Class "B" Preference Shares	The definition of "B" per clause 10.2.1.1 will be amended from "6.6%*" to "13.33%" * Please note that this percentage was originally 6% but was subsequently adjusted to an effective rate of 6.6% in terms of an adjustment notice sent to Friedshelf 1287 (RF) Proprietary Limited on 8 March 2012 with the abolishment of STC and the introduction of Dividend Tax.
Legal costs and expenses	All costs and expenses incurred pursuant to the amendment of the funding arrangement is for the account of the Dlamini Entities. Up to a maximum of R250,000 of the Additional Advance will be available to fund pre-agreed directly associated fees and expenses.
Other terms and conditions	As per the current Facilities Agreements.
Conditions Precedent	These include, inter alia: • Approval by the RMB Investment Committee • Actom Shareholder and Actom board approval to the extent required • Amendment of the legal agreements to effect the amendments

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG LOCAL DIVISION, JOHANNESBURG

above and any other consequential amendments to the satisfaction of the RMB

- Tax and legal opinions to the satisfaction of RMB on the proposed transaction set-out in this term sheet
- The Distribution will be utilised to repay the PEG HR facility advanced by RMB (R20m), Rates & Taxes to Ethekwini Municipality (R5m), the Non-refundable Structuring Fee (R750,000) and a maximum of R250 000 to fund costs. This will be done by making a direct payment form the Friedshelf 1287 (RF) Proprietary Limited bank accounts held with RMB to RMB (R20.75m) and the Ethekwini Municipality (R5m) and lawyers and service providers (up to R250,000).

Go to Audit Certificate Report

1 Merchant Place, Cnr Fredman Dr & Rivonia Rd, Sandton, ZA.GT, SOUTH AFRICA, 2196
PO Box 786273, Sandton, ZA.GT, SOUTH AFRICA, 2146
www.rmb.co.za
Registration No: 1929/001225/06
An Authorised Financial Service Provider

Enquiries:
Cara Mullin
Tel: +27 11 2828210
Fax: +27 11 2828328
E-mail: cara.mullin@rmb.co.za

RAND MERCHANT BANK
A division of FirstRand Bank Limited

PEG HR Solutions (Pty) Ltd

2 Osborn Rd

Houghton Office Park

4Th Floor Houghton

Johannesburg
2195
Attention:

Account Number: 0000002527
Account Name: PEG HR Solutions 2527 Term

Currency: ZAR

Lender Name: Rand Merchant Bank a division of FirstRand Bank Ltd

Date produced: 05/09/2018 10:40:31

Statement of Account
for the period 23 May 2014 to 05 September 2018

Date	Days	Base Rate Type	Base Rate	Base Rate Units	Margin	Margin Rate Units	All-In Rate	All In Rate Units	Drawdown	Total Payment	Capital Payment	Interest Payment	Interest Accrued	Interest Compounded	Total Balance
2014/11/18	0	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	39 469 859,09	0,00	0,00	0,00	0,00	0,00	39 469 859,09
2014/11/28	10	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	100 026,36	100 026,36	39 569 885,45
2014/12/01	3	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	30 083,95	0,00	39 599 969,40
2015/01/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	39 910 836,92
2015/02/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	40 221 704,45
2015/03/01	28	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	280 783,57	0,00	40 502 488,02
2015/04/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,52	0,00	40 813 355,54
2015/05/01	30	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	300 839,54	0,00	41 114 195,08
2015/06/01	31	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	310 867,53	0,00	41 425 062,61
2015/06/30	29	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	20 000 000,00	20 000 000,00	0,00	290 811,55	0,00	21 715 874,16
2015/07/01	1	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	4 959,50	0,00	21 720 833,66
2015/07/24	23	FNBPR	9,250	SIMP	0,000	SIMP	9,250	SIMP	0,00	0,00	0,00	0,00	114 068,30	0,00	21 834 901,96
2015/07/31	7	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	158 082,19	0,00	0,00	0,00	35 654,72	0,00	22 028 638,87
2015/08/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 134,68	2 305 605,91	22 033 773,55
2015/08/31	30	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	161 369,86	0,00	0,00	0,00	172 044,53	0,00	22 367 187,94
2015/09/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 776,82	177 821,35	22 372 964,76
2015/09/30	29	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	156 164,39	0,00	0,00	0,00	158 869,91	0,00	22 697 999,06
2015/10/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	5 863,75	174 733,66	22 703 862,81
2015/10/31	31	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	183 185,96	183 185,96	22 887 048,77
2015/11/01	1	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	171 780,82	0,00	0,00	0,00	5 956,90	0,00	23 064 786,49
2015/11/20	18	FNBPR	9,500	SIMP	0,000	SIMP	9,500	SIMP	0,00	0,00	0,00	0,00	201 727,67	0,00	23 266 514,16
2015/12/01	11	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	126 522,16	334 206,75	23 393 036,34
2016/01/01	31	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	359 330,01	359 330,01	23 752 366,35
2016/01/29	28	FNBPR	9,750	SIMP	0,000	SIMP	9,750	SIMP	0,00	0,00	0,00	0,00	327 243,72	0,00	24 079 610,07
2016/02/01	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	36 859,87	364 103,59	24 116 469,94
2016/02/04	3	FNBPR	10,250	SIMP	0,000	SIMP	10,250	SIMP	0,00	0,00	0,00	0,00	37 166,62	0,00	24 153 636,56
2016/02/23	19	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	64 133,82	0,00	0,00	0,00	281 318,03	0,00	24 519 088,41
2016/03/01	7	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	103 841,15	422 328,60	24 622 929,56
2016/03/18	17	FNBPR	10,250	SIMP	2,000	SIMP	12,250	SIMP	0,00	0,00	0,00	0,00	254 595,21	0,00	24 877 524,77
2016/03/31	13	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	2 739,42	0,00	0,00	0,00	196 668,72	0,00	25 078 927,91
2016/04/01	1	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	1 282,77	468 541,70	25 094 210,68
2016/04/26	27	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	16 069,85	0,00	0,00	0,00	414 959,01	0,00	25 527 247,54
2016/05/01	3	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	46 345,16	46 345,19	25 573 593,72
2016/05/31	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	483 803,25	483 803,25	26 057 422,97
2016/06/20	19	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	9 804,00	0,00	0,00	0,00	299 936,71	0,00	26 366 915,68
2016/07/01	11	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	173 540,93	473 540,64	26 540 456,61
2016/08/01	31	FNBPR	10,500	SIMP	2,000	SIMP	12,500	SIMP	0,00	0,00	0,00	0,00	494 093,88	494 093,88	27 034 550,49

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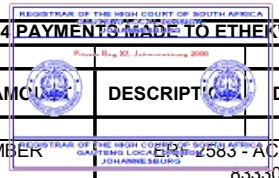

SUMMARY OF PAYMENTS MADE TO ETHEKWINI METRO EXCLUDING QAN 88 AND QAN94 PAYMENTS MADE TO ETHEKWINI														
ITEM NO	DESCRIPTION	DATE	AMOUNT	DESCRIPTION	DATE	AMOUNT	DESCRIPTION	DATE	AMOUNT	DESCRIPTION	DATE	AMOUNT	TOTALS	
	ERF 2579 - ACCOUNT NUMBER 83330150191 :			ERF 2580 - ACCOUNT NUMBER 83330152919 :			ERF 2582 - ACCOUNT NUMBER 83330152313 :			ERF 2583 - ACCOUNT NUMBER 83330151202 :				
1	**AT INCEPTION**			**AT INCEPTION**			**AT INCEPTION**			**AT INCEPTION**				
	Balance b/f 1	04-May-08	R128 282,93	Balance b/f 1	04-May-08	R132 754,50	Balance b/f 1	04-May-08	R167 090,46	Balance b/f 1	04-May-08	R170 641,28	R598 769,17	Check
	Balance b/f 2	03-Jun-08	R128 282,92	Balance b/f 2	03-Jun-08	R132 754,48	Balance b/f 2	03-Jun-08	R167 090,42	Balance b/f 2	03-Jun-08	R169 641,26	R597 769,08	Check
	Part of RMB loan	03-Dec-08	R375 466,94	Part of RMB loan	03-Dec-08	R386 909,60	Part of RMB loan	03-Dec-08	R476 827,51	Part of RMB loan	03-Dec-08	R488 487,88	R1 727 691,93	
	SUB-TOTAL 1		**R632 032,79**			**R652 418,58**			**R811 008,39**			**R828 770,42**	**R2 924 230,18**	
2	**BY FRIEDSHELF**			**BY FRIEDSHELF**			**BY FRIEDSHELF**			**BY FRIEDSHELF**				
	Payment	24/06/2014	R1 050 357,79	Payment	24/06/2014	R1 451 725,02	Payment	24/06/2014	R2 086 875,34	Payment	24/06/2014	R411 041,85	R5 000 000,00	
	SUB-TOTAL 2		**R1 050 357,79**			**R1 451 725,02**			**R2 086 875,34**			**R411 041,85**	**R5 000 000,00**	
3	**BY MBUSO**			**BY MBUSO**			**BY MBUSO**			**BY MBUSO**				
	Payment	08-Jun-08	R155 767,47	Payment	08-Jun-08	R158 677,56	Payment	08-Jun-08	R184 167,35	Payment	08-Jun-08	R190 420,36	R689 032,74	
	Payment	31-Oct-15	R130 000,00				Payment	28-Oct-15	R130 000,00		09-Mar-09	241140,48	R501 140,48	
											13-Jul-11	9999,91	R9 999,91	
											23-Oct-15	170000	R170 000,00	
											07-Dec-15	170000	R170 000,00	
	SUB-TOTAL 3		**R285 767,47**			**R158 677,56**			**R314 167,35**			**R781 560,75**	**R1 540 173,13**	
4	**BY CONVEYANCER ON BEHALF OF PEG H**			**BY CONVEYANCER ON BEHALF OF PEG H**			**BY CONVEYANCER ON BEHALF OF PEG H**			**BY CONVEYANCER ON BEHALF OF PEG HR**				
	Payment	07-Mar-17	R1 513 024,00	Payment	07-Mar-17	R2 382 688,00	Payment	07-Mar-17	R3 024 771,00	Payment	07-Mar-17	R0,00	R6 920 483,00	Paid ex sale of 3 erven
	SUB-TOTAL 4		**R1 513 024,00**			**R2 382 688,00**			**R3 024 771,00**			**R0,00**	**R6 920 483,00**	
	TOTALS		**R3 481 182,05**			**R4 645 509,16**			**R6 236 822,08**			**R2 021 373,02**	**R16 384 886,31**	

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ETHEKWINI MUNICIPALITY

THE METRO BILL
REVENUE DEPARTMENT

TAX INVOICE

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 0191	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office Poskantoor 83330150191

EASYPAY 9 1800 833 301 501 916

pay@ 11350 0833 3015 0191

payCity 04001 833 3015 0191

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	1050357.79
14-06-24DP	PAYMENT - THANK YOU	1050357.79CR
	PARK AVENUE UMHLANGA RIDGE	
2883 4029	MONTHLY RATES - JULY INSTALMENT	38983.33
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE BY 2014-07-23	38983.33

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

MAKE THINGS HAPPEN

NEDBANK

Payment Methods:

1. Pay at Nedbank Branches by completing a Nedbank Deposit Slip to pay 'Ethekwini Municipality' (bank account number is not required) OR
2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

ETHEKWINI MUNICIPALITY

THE METRO BILL
REVENUE DEPARTMENT

TAX INVOICE

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 2919	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office Poskantoor 83330152919

EASYPAY 9 1800 833 301 529 198

payA 11350 0833 3015 2919

payCity 04001 833 3015 2919

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	1451725.02
14-06-24DP	PAYMENT - THANK YOU	1451725.02CR
	PARK AVENUE UMHLANGA RIDGE	
2883 4433	MONTHLY RATES - JULY INSTALMENT	60424.17
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE BY 2014-07-23	60424.17

MAKE THINGS HAPPEN

NEDBANK

Payment Methods:

1. Pay at Nedbank Branches by completing a Nedbank Deposit Slip to pay 'Ethekwini Municipality' (bank account number is not required) OR
2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

27/5/2025 10:52:42 PM

ETHEKWINI MUNICIPALITY

THE METRO BILL
REVENUE DEPARTMENT

TAX INVOICE

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 2313	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office Poskantoor 83330152313

EasyPay 9 1800 833 301 523 134

pay@ 11350 0833 3015 2313

payCity 04001 833 3015 2313

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	2086875.34
14-06-24DP	PAYMENT - THANK YOU	2086875.34CR
	PARK LANE UMHLANGA RIDGE	
2883 4332	MONTHLY RATES - JULY INSTALMENT	76797.17
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE BY 2014-07-23	76797.17

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

MAKE THINGS HAPPEN

NEDBANK

Payment Methods:

1. Pay at Nedbank Branches by completing a Nedbank Deposit Slip to pay 'Ethekwini Municipality' (bank account number is not required) OR
2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

ETHEKWINI MUNICIPALITY

THE METRO BILL
REVENUE DEPARTMENT

TAX INVOICE

P.O.BOX 828, DURBAN 4000
Tel: (031) 324 5000 Fax: (031) 324 5111
email : revline@durban.gov.za
web : www.durban.gov.za
COUNCIL VAT REGISTRATION No 488 019 3505

ACCOUNT NUMBER	DATE OF ACCOUNT
833 3015 1202	2014-07-02
GUARANTEE	**DEPOSIT**
0.00	0.00

Post Office Allocation 0018 0018

Post Office Poskantoor 83330151202

EASYPAY 9 1800 833 301 512 020

pay@ 11350 0833 3015 1202

payCity 04001 833 3015 1202

PEG HR SOLUTIONS PTY LTD
POSTNET SUITE 405
PRIVATE BAG X9924
SANDTON
2146

REFERENCE	ACCOUNT DETAILS	AMOUNT
	BALANCE BROUGHT FORWARD	1990147.34
14-06-24DP	PAYMENT - THANK YOU	411041.85CR
		1579105.49
	URGENT : ACCOUNT IN ARREARS!	
	Should payment not be made at a MUNICIPAL Office with online receipting facilities by 2014-07-12, we advise that we intend to cut off or restrict the supply of Electricity/Water on 2014-07-12 and we may on or after that date so cut off or restrict such supply.	
	SHOULD YOU WISH TO DISCUSS THE MATTER, PLEASE VISIT ANY OF THE METRO REVENUE OFFICES BY NOT LATER THAN 2014-07-12. OR POST WRITTEN SUBMISSIONS TO P.O. BOX 828 DURBAN 4000 TO REACH OUR OFFICES BY NOT LATER THAN 2014-07-12.	
	INTEREST CHARGES ON RATES	8648.33
	TWILIGHT DRIVE UMHLANGA RIDGE	
2883 4231	MONTHLY RATES - JULY INSTALMENT	76407.33
	INTEREST CHARGES	3132.96
	VAT RAISED ON ITEMS '*'	0.00
	TOTAL AMOUNT PAYABLE	1667294.11

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

MAKE THINGS HAPPEN

NEDBANK

Payment Methods:

1. Pay at Nedbank Branches by completing a Nedbank Deposit Slip to pay 'Ethekwini Municipality' (bank account number is not required) OR
2. Pay electronically via your Banks payment platforms: Select the pre-defined Beneficiary (eThekwini Municipality) linked to Nedbank EFT Bank Account Number 1107821126 OR
3. Pay via SWIFT address NEDSZAJJ to Nedbank EFT Bank Account Number 1107821126

NB: It is mandatory that you quote your Metro Bill account number in the reference field when submitting your payment.

BUNDLE 9

UNDERLYING ACCOUNTING RECORDS WERE REPEATEDLY REQUESTED

ANNEXURE C1

Document Demand Chronology

Chronological record of Petitioner's requests for bank statements and transactional records (2008–2025)

Cover page

Chronological record of Plaintiff's requests for contractual documents, bank statements and transactional records (2008–2024)

EMAIL INDEX TABLE:

DATE	EMAIL NO.	RECIPIENT	DESCRIPTION	ANNEXURE PAGE	REMARKS
19 May 2015	C1.1	Sivuziwe Mzamo - FRBL	Request for PEG HR Contractual Documents		Did not supply documents
26 May 2015	C1.2	Neels Els - FRBL	Requesting Bank Statements		Did not supply bank statements
26 May 2015	C1.3	Neels Els / Aspacia Lethepa - FRBL	Requesting Bank Statements		Did not supply bank statements
01 June 2015	C1.4	Sivuziwe Mzamo - FRBL	Requesting all PEG HR Documents		Did not supply documents
30 July 2021	C1.5	Neels Els - FRBL	Requesting F1287 Bank Statements		Did not supply bank statements
30 July 2021	C1.6	RMB Corporate Banking services	Requesting F1287 Bank Statements		They could not locate bank accounts
06 August 2021	C1.7	EM Dlamini – F1287	Email from Neels Els – FRBL acknowledging receipt of email from EM Dlamini		Acknowledged receipt of request but did not supply documents
23 August 2021	C1.8	Natalie Rodrigues - FRBL	Requesting F1287 Bank Statements		Did not supply bank statements but referred

					me to Neil Goosen
23 August 2021	C1.9	EM Dlamini – F1287	Email from Natalie Rodrigues advising forwarding EM Dlamini request to Neil Goosen – FRBL		Natalie referring me to Neil Goosen
09 September 2021	C1.10	EM Dlamini – F1287	Email from Neil Goosen – FRBL advising EM Dlamini to get Attorneys to request F1287 bank statements from FRBL Attorneys		Neil Goosen telling me to get employ attorneys to request bank statements
09 September 2021	C1.11	EM Dlamini – F1287	Email from Neil Goosen – FRBL advising EM Dlamini to get Attorneys to request F1287 bank statements from FRBL Attorneys		Neil Goosen telling me to get employ attorneys to request bank statements
09 May 2022	C1.12	EM Dlamini – F1287	Email from Neels Els – FRBL advising EM Dlamini to get Attorneys to request F1287 bank statements from FRBL Attorneys		Neil Goosen telling me to get employ attorneys to request bank statements
06 May 2024	C1.13	Mary Vilakazi – FRBL Group CEO	Requesting PEG HR and F1287 Documents		Did not supply documents
06 May 2024	C1.14	Mary Vilakazi – FRBL Group	Requesting PEG HR and		Did not supply documents

		CEO and Barbi Mulder – FRBL Group CEO PA	F1287 Documents		
20 November 2024	C1.15	EM Dlamini – F1287	Natalie Rodrigues – FRBL advising that her colleagues were attending to EM Dlamini – F1287 request		Did not supply documents
27 November 2024	C1.16	Natalie Rodrigues - FRBL	Following up on outstanding documents and response to prior email request		Did not supply documents
29 November 2024	C1.17	EM Dlamini - PEG HR, F1287	Cannot locate bank records		Group CEO admitting that there were documents in the FRBL system. Jean du Plessis of FRBL sending a Capital Redemption Reserve Account with zero from inception to November 2024

ANNEXURE C1.1

Document Demand Chronology

Chronological record of Petitioner's requests for bank statements and transactional records (2008–2025)

RE: PEG HR Solutions Pty Ltd

19/05/2015 17:54

From: "Mbuso Dlamini" <mbuso@icon.co.za>

To: "Mzamo, Sivuziwe" <Sivuziwe.Mzamo@rmb.co.za>

Cc: "Boake, Ruth" <Ruth.Boake@rmb.co.za>,"du Plessis, Jean" <Jean.duPlessis@rmb.co.za>,"Downes, David" <David.Downes@rmb.co.za>

Sivu

I require a copy of all contractual documents that you have in the PEG HR Solutions file.

Kindly advise when and how you would make them available.

Kind Regards
Mbuso

From: Mzamo, Sivuziwe [mailto:Sivuziwe.Mzamo@rmb.co.za]
Sent: 19 May 2015 03:10 PM
To: mbuso@icon.co.za
Cc: Boake, Ruth; du Plessis, Jean; Downes, David
Subject: RE: PEG HR Solutions Pty Ltd

Hi Mbuso,

I hope this email finds you well.

What exactly would you like in this file? Are you talking about all of Peg HR's statements? If I remember correctly, this was sent to you late last year, at your request.

Kind regards,

Sivuziwe (Sivu) Mzamo
Investment Banking
Real Estate

cid:image001.png@01CB144E.474A5710

Rand Merchant Bank
Telephone +27 11 282 4063
Switchboard +27 11 282 8000
Facsimile +27 11 282 4989
Mobile +27 72 223 7471
www.rmb.co.za

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: 18 May 2015 17:31
To: Mzamo, Sivuziwe
Subject: PEG HR Solutions Pty Ltd

Sivu

I hope that you are fine.

Kindly make me a copy of PEG HR Solutions file so that we may compare it with what we have.

Kindly either :

1. Scan and email the documents to me at your earliest convenience; or
2. Compie a file and let me know once it is done so that I may collect it before our meeting of the 26th May 2015; or
3. I will collect the file at the meeting of the 26th May 2015

Kind Regards
Mbuso

This e-mail is subject to a disclaimer, available at

http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

Attachments:

- image001.png

Annexure C1.2

Email plus Letter sent to Neels Els of FRBL Requesting that F1287 Bank Statements be sent out to F1287 monthly from 01 June 2015

Mbuso

From: Mbuso Dlamini <mbuso@icon.co.za>
Sent: Tuesday, 26 May 2015 23:13
To: 'Els, Neels'
Cc: 'Anne Klein'; 'Celeste Barnard'; 'Brian Coombe'; 'Maluleke, Lorraine'; 'Lethepa, Aspacia'; 'Bester Ngoepe'
Subject: RE: Friedshelf 1287 (RF) (Pty Ltd covenants December 2014 and March 2015
Attachments: Scan1.PDF

Neels

Attached herein is the letter as discussed at the meeting today.

Kind Regards
M Dlamini

FRIEDSHELF 1287 (RF) PROPRIETARY LIMITED

REGISTRATION NO: 2011/125738/07

1ST FLOOR
32 FRICKER ROAD
ILLOVO
JOHANNESBURG
2196

TEL: 011 530 8400

PO BOX 781396
SANDTON
2146

FAX: 011 530 8410

RAND MERCHANT BANK

TO WHOM IT MAY CONCERN

26th MAY 2015

Dear Sir / Madam

RE : DISTRIBUTION OF FRIEDSHELF BANK STATEMENTS ON A MONTHY BASIS

We hereby request that you send to us, by email, Friedshelf bank statements on a monthly basis and copy the following at Maitland :

1. Anne Klein at anne.klein@maitland.com
2. Celeste Barnard at celeste.barnard@maitland.com
3. Brian Coombe at brian.coombe@maitland.com

We would appreciate it if you could kindly start with this distribution from the 01st June 2015.

Yours Sincerely

Mbuso Dlamini

CC : Anne Klein; Celeste Barnard; Brian Coombe; Bester Ngoepe

17-241

Annexure C1.3

Email sent to Neels Els of FRBL Requesting that he sends F1287 Bank Statements from Inception to 30 April 2015

RE: Friedshelf 1287 (RF) (Pty Ltd covenants December 2014 and March 2015

26/05/2015 23:16

From: "Mbuso Dlamini" <mbuso@icon.co.za>

To: "Els, Neels" <Neels.Els@rmb.co.za>

Cc: "Anne Klein" <Anne.Klein@maitlandgroup.com>,"Celeste Barnard" <Celeste.Barnard@maitlandgroup.com>,"Brian Coombe" <brian.coombe@maitlandgroup.com>,"Maluleke, Lorraine" <Lorraine.Maluleke@rmb.co.za>,"Lethepa, Aspacia" <Aspacia.Lethepa@rmb.co.za>

Aspacia

As discussed at the meeting today, kindly send us (by email) Friedshelf bank statements from inception to the 30th April 2015; and thereafter monthly as per the letter attached to my previous email.

Kind Regards
M Dlamini

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: 26 May 2015 11:13 PM
To: 'Els, Neels'
Cc: 'Anne Klein'; 'Celeste Barnard'; 'Brian Coombe'; 'Maluleke, Lorraine'; 'Lethepa, Aspacia'; 'Bester Ngoepe'
Subject: RE: Friedshelf 1287 (RF) (Pty Ltd covenants December 2014 and March 2015

Neels

Attached herein is the letter as discussed at the meeting today.

Kind Regards
M Dlamini

17-243
17-243

Annexure C1.4

Email sent to Sivuziwe Mzamo of FRBL Requesting that PEG HR Collects a copy of the full Transactional Records / Documents of PEG HR from FRBL

RE: PEG HR Solutions Pty Ltd

01/06/2015 08:38

From: "Mbuso Dlamini" <mbuso@icon.co.za>

To: "Mzamo, Sivuziwe" <Sivuziwe.Mzamo@rmb.co.za>

Cc: "Boake, Ruth" <Ruth.Boake@rmb.co.za>,"du Plessis, Jean" <Jean.duPlessis@rmb.co.za>,"Downes, David" <David.Downes@rmb.co.za>

Sivu

The last meeting refer.

Kindly advise if and when I can come and pick up the file.

I hope you have had a chance to go through it and I can pick it up at your earliest convenience.

Kind Regards
Mbuso

From: Mzamo, Sivuziwe [mailto:Sivuziwe.Mzamo@rmb.co.za]
Sent: 19 May 2015 03:10 PM
To: mbuso@icon.co.za
Cc: Boake, Ruth; du Plessis, Jean; Downes, David
Subject: RE: PEG HR Solutions Pty Ltd

Hi Mbuso,

I hope this email finds you well.

What exactly would you like in this file? Are you talking about all of Peg HR's statements? If I remember correctly, this was sent to you late last year, at your request.

Kind regards,

Sivuziwe (Sivu) Mzamo
Investment Banking
Real Estate

cid:image001.png@01CB144E.474A5710

Rand Merchant Bank
Telephone +27 11 282 4063
Switchboard +27 11 282 8000
Facsimile +27 11 282 4989
Mobile +27 72 223 7471
www.rmb.co.za

From: Mbuso Dlamini [mailto:mbuso@icon.co.za]
Sent: 18 May 2015 17:31
To: Mzamo, Sivuziwe
Subject: PEG HR Solutions Pty Ltd

Sivu

I hope that you are fine.

Kindly make me a copy of PEG HR Solutions file so that we may compare it with what we have.

Kindly either :

1. Scan and email the documents to me at your earliest convenience; or
2. Compie a file and let me know once it is done so that I may collect it before our meeting of the 26th May 2015; or
3. I will collect the file at the meeting of the 26th May 2015

Kind Regards
Mbuso

This e-mail is subject to a disclaimer, available at

http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

Attachments:

- image001.png

Annexure C1.5

Email and Letter Sent by Nozuko Attorneys Requesting F1287 Bank Statements from FRBL's Neels Els

mbuso.dlamini@palacegroup.co.za

From: Given <given@nozukonxusaniinc.co.za>
Sent: Friday, 30 July 2021 09:41
To: neels.els@rmb.co.za; jean.duplessis@rmb.co.za
Cc: mbuso.dlamini@palacegroup.co.za
Subject: FW: FRIENDSHELF 1287 RMB ACCOUNTS
Attachments: Letter to RMB.pdf

Good day

We have not received neither an acknowledgment nor a reply to the above letter.

We await the requested statements from you as this matter is pressing to our client.

Regards

Mr Given Chavalala

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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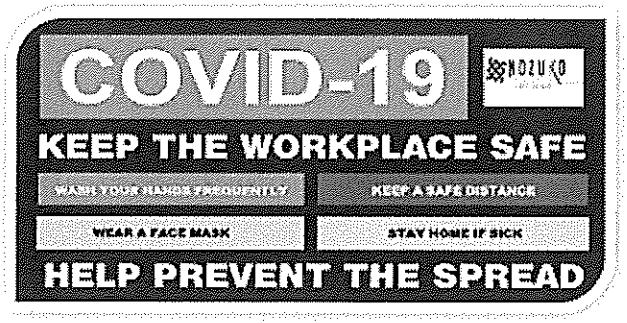

From: Given [mailto:given@nozukonxusaniinc.co.za]
Sent: 27 July 2021 03:44 PM

To: 'jean.duplessis@rmb.co.za' <jean.duplessis@rmb.co.za>
Subject: FW: FRIENDSHELF 1287 RMB ACCOUNTS

Good day

Kindly find attached hereto a letter for your attention.

Regards

Mr Given Chavalala

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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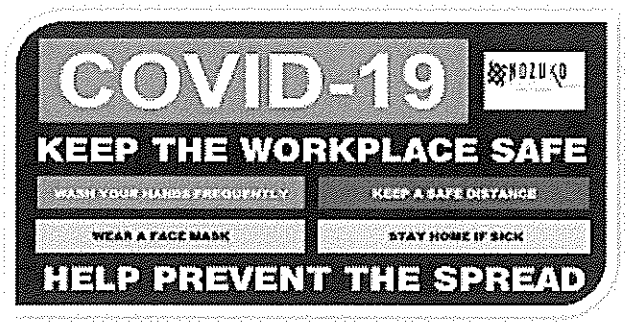

From: Given [mailto:given@nozukonxusaniinc.co.za]
Sent: 27 July 2021 03:03 PM
To: 'neels.else@rmb.co.za' <neels.else@rmb.co.za>; 'jean.duplessis@co.za' <jean.duplessis@co.za>
Cc: 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: FRIENDSHELF 1287 RMB ACCOUNTS

Good day

Kindly find attached hereto a letter for your attention.

Regards

Mr Given Chavalala

17-249

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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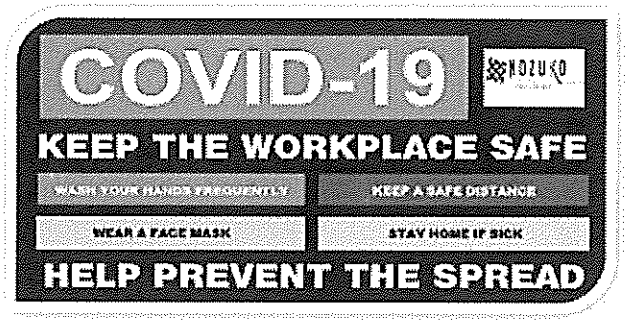

17-250

NOZUKO
NXUSANI INC
ATTORNEYS & CONVEYANCERS

KEMPTON PARK OFFICE
THE WHITE HOUSE BUILDING
WEST WING 8, GROUND FLOOR
40 KERK STREET CNR MONUMENT ROAD
KEMPTON PARK 1619

POSTNET SUITE 169
PRIVATE BAG X27
KEMPTON PARK 1620
DOCEX 47, KEMPTON PARK

REGISTRATION NO.: 2003/025348/21

27 July 2021

Our Ref: Mr TG Chavalala/MAT7870 *Your Ref:*

RAND MERCHANT BANK
PER EMAIL: NEELS.ELSE@RMB.CO.ZA
CC: JEAN.DUPLESSIS@RMB.CO.ZA

Dear Sir

RE: FRIEDSHELF 1287 (PTY) LTD: - BANK ACCOUNTS

1. We confirm to be acting on behalf of Friedshelf 1287 (Pty) Ltd (our client).

2. We are instructed by our client to request bank statements of the accounts stated herein below from inception of the accounts to date.

   2.1 Account number SMT-DC11A00276;
   2.2 Account number SMT-DC11A00277; and
   2.3 Any other account held in the name of our client.

3. The statements can be emailed to the writer hereof, alternatively be collected from your offices.

4. Our client's director, Mr Mbuso Dlamini attempted to get the statements from the offices of RMB but was informed to contact the account manager.

5. We await to hear from you.

Yours faithfully

NOZUKO NXUSANI INCORPORATED
PER: MR GIVEN CHAVALALA

Telephone Number: +27 11 975 5666 | Fax Number: +27 11 975 0707

Executive Director: Noz Nxusani | Managing Director: Selemo Makubung | Operations Manager: Frank Koko
Directors: Yoshira Ramjee | Given Chavalala | Mr Barry Moyana
Senior Associates: Portia Banda | Godfrey Mohlala | Themba Malandela | Khuduga Phokwane | Neema Mchau
Associates: Mantsonyana Mangokoane | Abner Mabaso | Mmabatho Potelo | Yolanda Lusithi | Kefiloe Ramela-Mkhwanazi
Email: info@nozukonxusanlinc.co.za | Web: www.noznxusanlinc.co.za

Annexure C1.6

Email sent to RMB Corporate Banking Services Requesting F1287 Bank Statements

Request for Friedshelf 1287 Pty Ltd Bank Statements : Call (12h53 - 30 July 2021) Reference Number 1-3827701651

30/07/2021 13:21

From: "Mbuso Dlamini" <mbuso@icon.co.za>

To: services@rmb.co.za

Cc: mbuso@icon.co.za

Good Day RMB Corporate Banking services Team

I called in later and spoke to Kasturi; who diligently assisted me.

Kindly send me the following bank statements for the above mentioned company from inception to date :

1. Collection Account Number SMT-DC11A00276 (see the attached copy);
2. Operating Account Number SMT-DC11A00277 (not attached); and
3. Loan Account Number ....

I am the sole director of the company.

Please revert urgently.

Kind Regards
Mbuso Dlamini
Director
Friedshelf 1287 Pty Ltd
0826060492

Attachments:

- Chameleon-AccStatementSMT1352400.pdf

17-254

Annexure C1.7

Response from FRBL's Neels Els to Email Sent by Nozuko Attorneys

mbuso.dlamini@palacegroup.co.za

From: Els, Neels <Neels.Els@rmb.co.za>
Sent: Friday, 06 August 2021 13:43
To: Given; du Plessis, Jean
Cc: mbuso.dlamini@palacegroup.co.za
Subject: RE: FRIENDSHELF 1287 RMB ACCOUNTS - [External Email]

Hi Given,

We acknowledge receipt of the email below dated 30 July 2021.

We have requested the statements and will send these through in due course.

Regards,

RMB

NEELS ELS
PRINCIPAL INVESTMENTS

CORPORATE AND INVESTMENT BANKING

Direct Line +27 11 282 8176
Mobile +27 83 679 6201
e-mail neels.els@rmb.co.za
Website rmb.co.za

RMB a division of FirstRand Bank Limited, is an Authorised Financial Services and Credit Provider NCRCP20. Reg. No. 1929/001225/06

From: Given <given@nozukonxusaniinc.co.za>
Sent: Friday, July 30, 2021 9:41 AM
To: Els, Neels <Neels.Els@rmb.co.za>; du Plessis, Jean <Jean.duPlessis@rmb.co.za>
Cc: mbuso.dlamini@palacegroup.co.za
Subject: FW: FRIENDSHELF 1287 RMB ACCOUNTS - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good day

We have not received neither an acknowledgment nor a reply to the above letter.

We await the requested statements from you as this matter is pressing to our client.

Regards

Mr Given Chavalala

NOZUKO

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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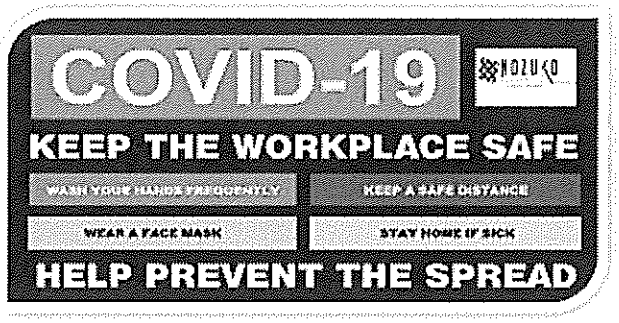

From: Given [mailto:given@nozukonxusaniinc.co.za]
Sent: 27 July 2021 03:44 PM
To: 'jean.duplessis@rmb.co.za' <jean.duplessis@rmb.co.za>
Subject: FW: FRIENDSHELF 1287 RMB ACCOUNTS

Good day

Kindly find attached hereto a letter for your attention.

Regards

Mr Given Chavalala

NOZUKO

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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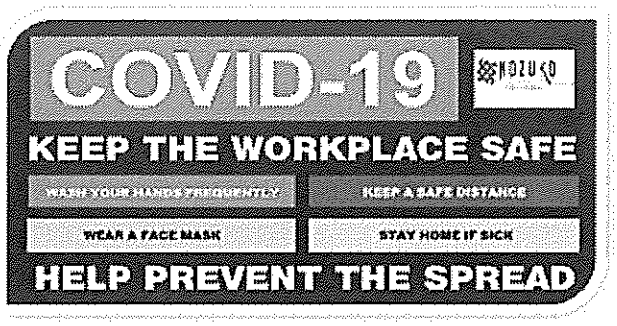

From: Given [mailto:given@nozukonxusaniinc.co.za]
Sent: 27 July 2021 03:03 PM
To: 'neels.else@rmb.co.za' <neels.else@rmb.co.za>; 'jean.duplessis@co.za' <jean.duplessis@co.za>
Cc: 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: FRIENDSHELF 1287 RMB ACCOUNTS

Good day

Kindly find attached hereto a letter for your attention.

Regards

Mr Given Chavalala

NOZUKO

Tel: +2711 975 5666 Fax: +2711 975 0707 Cell: +2779 539 3288
Physical Address:
40 Kerk Street, The Whitehouse Building, W8 Ground Floor, Kempton Park.

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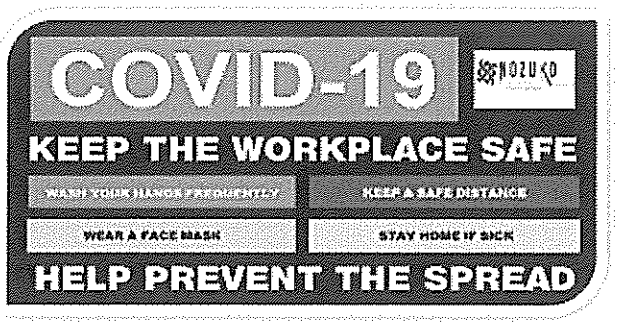

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17-259

Annexure C1.8

Email Sent to FRBL's Natalie Rodrigues Requesting Bank Statements for F1287

RE: Requesting bank statements - [External Email]

23/08/2021 16:17

From: "Mbuso Dlamini" <mbuso@icon.co.za>

To: "Rodrigues, Natalie" <Natalie.Rodrigues@fnb.co.za>,mbuso.dlamini@palacegroup.co.za

Cc: "Veress, Klarli" <Klarli.Veress@rmb.co.za>

Good Day Natalie

I am looking for bank statements for all bank accounts of Friedshelf 1287 Pty Ltd (Registration Number 2011/125738/07) from inception to date.

Kindly assist as soon as possible; and if you are not able to assist, let me know as soon as possible.

Urgent.

Kind Regards
Mbuso Dlamini
Director
Friedshelf 1287 Pty Ltd

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Monday, 23 August 2021 11:44
To: mbuso.dlamini@palacegroup.co.za
Cc: mbuso@icon.co.za; Veress, Klarli <Klarli.Veress@rmb.co.za>
Subject: FW: Requesting bank statements - [External Email]

Good day Mr Dhlamini

Thank you for taking my call. As discussed, kindly provide me with your account details so that we can assist.

Please also provide period for the request.

Kind regards
Natalie Rodrigues
FNB Commercial

17-261

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, August 21, 2021 6:01 PM
To: Veress, Klarli <Klarli.Veress@rmb.co.za>
Cc: mbuso@icon.co.za
Subject: Requesting bank statements - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Klarli

I am sending you this communication in order to request you or the Managing Director / Chief Executive Officer can assist me get bank statements for my company which has bank accounts at RMB.

I am the sole director and sole signatory on these bank accounts but I have not been able to get the said bank statements for the company despite several requests that I have sent to RMB. I have been told to go FNB, which I have done; and FNB sends me back to RMB.

Is there any way that you and / or the Managing Director / Chief Executive Officer of RMB can assist me obtain these bank statements? Kindly advise at your (MD / CEO) earliest convenience; or is there anybody else who can assist me with the said bank statements?

We trust that you wil entertain our request; and wait for your favourable response as soon as possible.

Kind Regards
Mbuso Dlamini
0826060492

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If you are unable to access our website, please contact us to send you a copy of the email disclaimer or privacy notice.

17-262

Annexure C1.9

Response from FRBL's Natalie Rodrigues on F1287 Bank Statements

mbuso@icon.co.za

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Monday, 23 August 2021 18:06
To: mbuso@icon.co.za; mbuso.dlamini@palacegroup.co.za; Goosen, Neil
Cc: Veress, Klarli
Subject: RE: Requesting bank statements - [External Email]

Hi Mr Dhlamini

I have forwarded your request to Neil Goosen.
Apologies for the delay from our side. I see that your request was logged on the 5th of August.

@Goosen, Neil, please advise timelines.

Kind regards
Natalie

From: Mbuso Dlamini <mbuso@icon.co.za>
Sent: Monday, 23 August 2021 16:18
To: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>; mbuso.dlamini@palacegroup.co.za
Cc: Veress, Klarli <Klarli.Veress@rmb.co.za>
Subject: RE: Requesting bank statements - [External Email]

Good Day Natalie

I am looking for bank statements for all bank accounts of Friedshelf 1287 Pty Ltd (Registration Number 2011/125738/07) from inception to date.

Kindly assist as soon as possible; and if you are not able to assist, let me know as soon as possible.

Urgent.

Kind Regards
Mbuso Dlamini
Director
Friedshelf 1287 Pty Ltd

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Monday, 23 August 2021 11:44
To: mbuso.dlamini@palacegroup.co.za
Cc: mbuso@icon.co.za; Veress, Klarli <Klarli.Veress@rmb.co.za>
Subject: FW: Requesting bank statements - [External Email]

Good day Mr Dhlamini

Thank you for taking my call. As discussed, kindly provide me with your account details so that we can assist.

Please also provide period for the request.

Kind regards

Natalie Rodrigues
FNB Commercial

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, August 21, 2021 6:01 PM
To: Veress, Klarli <Klarli.Veress@rmb.co.za>
Cc: mbuso@icon.co.za
Subject: Requesting bank statements - [External Email]

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Good Day Klarli

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I am the sole director and sole signatory on these bank accounts but I have not been able to get the said bank statements for the company despite several requests that I have sent to RMB. I have been told to go FNB, which I have done; and FNB sends me back to RMB.

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We trust that you wil entertain our request; and wait for your favourable response as soon as possible.

Kind Regards
Mbuso Dlamini
0826060492

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17-265

Annexure C1.10

Response from FRBL's Neil Goosen on F1287 Bank Statements

mbuso@icon.co.za

From: Goosen, Neil <Neil.Goosen@rmb.co.za>
Sent: Thursday, 09 September 2021 10:11
To: mbuso.dlamini@palacegroup.co.za
Cc: Veress, Klarli; mbuso@icon.co.za; du Plessis, Jean
Subject: RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

Hi Mbuso

Correction to my comment below, your attorneys should contact our attorneys i.e. not the bank directly.

Regards

Neil Goosen Coverage Banker
Banking Division South Africa
Direct line 0112824484 **Mobile** 0824666681

RMB
CORPORATE AND INVESTMENT BANKING
www.rmb.co.za

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From: Goosen, Neil
Sent: Thursday, September 9, 2021 10:05 AM
To: mbuso.dlamini@palacegroup.co.za
Cc: Veress, Klarli <Klarli.Veress@rmb.co.za>; mbuso@icon.co.za; du Plessis, Jean <Jean.duPlessis@rmb.co.za>
Subject: RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

Hi Mbuso

I suggest you approach your attorneys in this regard and request the attorneys to approach the bank.

We unfortunately cannot assist you directly.

Regards

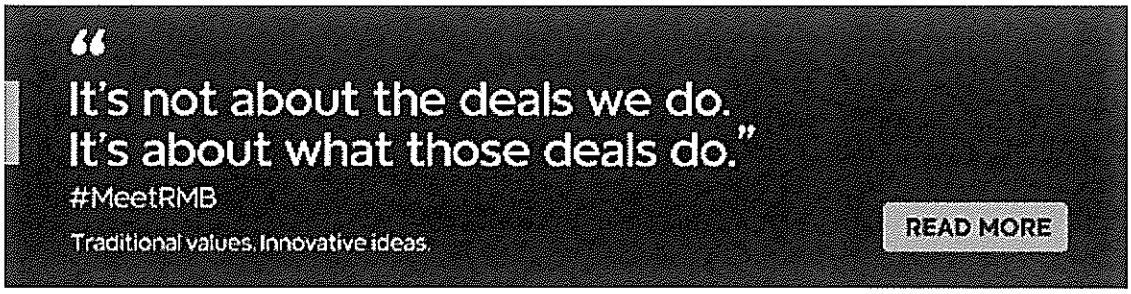
Neil Goosen Coverage Banker

17-267

Banking Division South Africa
Direct line 0112824484 **Mobile** 0824666681

RMB
CORPORATE AND INVESTMENT BANKING
www.rmb.co.za

RMB a division of FirstRand Bank Limited, is an Authorised Financial Services and Credit Provider NCRCP20. Reg. No. 1929/001225/06.



From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Thursday, September 9, 2021 9:59 AM
To: Goosen, Neil <Neil.Goosen@rmb.co.za>
Cc: Veress, Klarli <Klarli.Veress@rmb.co.za>; mbuso@icon.co.za
Subject: RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Klarli, Neil

It has been almost two weeks since I sent the below email request to you; and to date you have not sent me the bank statements, from inception to date, for Friedshelf 1287 Pty Ltd.

I am again pleading with you to send them to me by close of business this Friday, 10th September 2021. Please urgently send them to my email address : mbuso.dlamini@palacegroup.co.za and copy to mbuso@icon.co.za.

If I do not receive these statements from you by close of business on Friday 10th September 2021, I will have no choice but seek external assistance to get the statements from RMB.

I have made several requests before and I request that you kindly send these to me without any further delay.

Also please let me know if you do not intend to send them to me.

I also request you to arrange that I get online access to these accounts because I am the registered director of the company. Is there nay reason why I am not allowed online and any other access to these bank accounts and statements since inception of the bank accounts? Kindly explain.

This is my last plea to you to assist send me with these bank statements to mbuso.dlamini@palacegroup.co.za, CC : mbuso@icon.co.za. It s also my last plea to ask you to arrange for me to have online access to all Friedshelf 1287 Pty Ltd on the RMB and / or FNB platforms.

If the MD's office cannot help me with this matter, please advise me on where to go to get these statements.

17-268

I await your amicable resolution to this problem. It is a big problem for me and Friedshelf 1287 Pty Ltd.

Kind Regards
Mbuso Dlamini

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, 28 August 2021 10:02
To: 'Goosen, Neil' <Neil.Goosen@rmb.co.za>
Cc: 'Veress, Klarli' <Klarli.Veress@rmb.co.za>; 'Given Chavalala' <given@nozukonxusaniinc.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: Requesting Bank Statements for Friedshelf 1287 Pty Ltd

Good Day Mr Goosen

Our previous correspondence as well as our various attempts to get bank statements of the above mentioned company refer.

We have tried several channels (RMB office in Sandton, Account Manager, FNB Branches, FNB Customer Services, RMB Customer Services, etc.) to get the following bank statements (from inception to date) for the above mentioned company for a long time :

1. Loan account;
2. All and any other accounts opened at RMB or FNB or any other bank.

If we do not receive these bank statements by the close of business day on the 31st August 2021, we will have no choice but to request external assistance do get same.

Kind Regards
Mbuso Dlamini

This e-mail is subject to a disclaimer, available at

http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

Annexure C1.11

Second Response from FRBL's Neil Goosen on F1287 Bank Statements

RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

09/09/2021 10:13

From: "Goosen, Neil" <Neil.Goosen@rmb.co.za>

To: mbuso.dlamini@palacegroup.co.za

Cc: "Veress, Klarli" <Klarli.Veress@rmb.co.za>,mbuso@icon.co.za,"du Plessis, Jean" <Jean.duPlessis@rmb.co.za>

Hi Mbuso

Correction to my comment below, your attorneys should contact our attorneys i.e. not the bank directly.

Regards

Neil Goosen Coverage Banker
Banking Division South Africa
Direct line 0112824484 **Mobile** 0824666681

CORPORATE AND INVESTMENT BANKING
www.rmb.co.za

RMB a division of FirstRand Bank Limited, is an Authorised Financial Services and Credit Provider NCRCP20. Reg. No. 1929/001225/06.

From: Goosen, Neil
Sent: Thursday, September 9, 2021 10:05 AM
To: mbuso.dlamini@palacegroup.co.za

17-271

Cc: Veress, Klarli <Klarli.Veress@rmb.co.za>; mbuso@icon.co.za; du Plessis, Jean <Jean.duPlessis@rmb.co.za>
Subject: RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

Hi Mbuso

I suggest you approach your attorneys in this regard and request the attorneys to approach the bank.

We unfortunately cannot assist you directly.

Regards

Neil Goosen Coverage Banker
Banking Division South Africa
Direct line 0112824484 **Mobile** 0824666681

CORPORATE AND INVESTMENT BANKING
www.rmb.co.za

RMB a division of FirstRand Bank Limited, is an Authorised Financial Services and Credit Provider NCRCP20. Reg. No. 1929/001225/06.

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Thursday, September 9, 2021 9:59 AM
To: Goosen, Neil <Neil.Goosen@rmb.co.za>
Cc: Veress, Klarli <Klarli.Veress@rmb.co.za>; mbuso@icon.co.za
Subject: RE: Requesting Bank Statements for Friedshelf 1287 Pty Ltd - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

17-272

Good Day Klarli, Neil

It has been almost two weeks since I sent the below email request to you; and to date you have not sent me the bank statements, from inception to date, for Friedshelf 1287 Pty Ltd.

I am again pleading with you to send them to me by close of business this Friday, 10th September 2021. Please urgently send them to my email address : mbuso.dlamini@palacegroup.co.za and copy to mbuso@icon.co.za.

If I do not receive these statements from you by close of business on Friday 10th September 2021, I will have no choice but seek external assistance to get the statements from RMB.

I have made several requests before and I request that you kindly send these to me without any further delay.

Also please let me know if you do not intend to send them to me.

I also request you to arrange that I get online access to these accounts because I am the registered director of the company. Is there nay reason why I am not allowed online and any other access to these bank accounts and statements since inception of the bank accounts? Kindly explain.

This is my last plea to you to assist send me with these bank statements to mbuso.dlamini@palacegroup.co.za, CC : mbuso@icon.co.za. It s also my last plea to ask you to arrange for me to have online access to all Friedshelf 1287 Pty Ltd on the RMB and / or FNB platforms.

If the MD's office cannot help me with this matter, please advise me on where to go to get these statements.

I await your amicable resolution to this problem. It is a big problem for me and Friedshelf 1287 Pty Ltd.

Kind Regards
Mbuso Dlamini

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, 28 August 2021 10:02
To: 'Goosen, Neil' <Neil.Goosen@rmb.co.za>
Cc: 'Veress, Klarli' <Klarli.Veress@rmb.co.za>; 'Given Chavalala' <given@nozukonxusaniinc.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: Requesting Bank Statements for Friedshelf 1287 Pty Ltd

Good Day Mr Goosen

Our previous correspondence as well as our various attempts to get bank statements of the above mentioned company refer.

17-273

We have tried several channels (RMB office in Sandton, Account Manager, FNB Branches, FNB Customer Services, RMB Customer Services, etc.) to get the following bank statements (from inception to date) for the above mentioned company for a long time :

1. Loan account;
2. All and any other accounts opened at RMB or FNB or any other bank.

If we do not receive these bank statements by the close of business day on the 31st August 2021, we will have no choice but to request external assistance do get same.

Kind Regards
Mbuso Dlamini

This e-mail is subject to a disclaimer, available at

http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

Attachments:

- image001.jpg
- image002.jpg
- image003.jpg
- image004.jpg
- image005.jpg
- image006.jpg
- image007.jpg

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Annexure C1.12

Response from FRBL's Neels Els on F1287 Bank Statements

mbuso.dlamini@palacegroup.co.za

From: Els, Neels <Neels.Els@rmb.co.za>
Sent: Monday, 09 May 2022 15:38
To: mbuso.dlamini@palacegroup.co.za
Cc: du Plessis, Jean
Subject: RE: FRIENDSHELF 1287 RMB BANK ACCOUNTS - [External Email]

Hi Mbuso,

Hope you are also doing well.

I've been advised that there are various ongoing legal actions between FirstRand Bank Limited and yourself / your related parties.

As such, can you please ask your appointed attorneys to approach FirstRand Bank's appointed attorneys for the information.

Regards,

Neels Els
Principal Investments
Mobile +27 83 679 6201
Email neels.els@rmb.co.za

RMB
CORPORATE AND INVESTMENT BANKING
www.rmb.co.za

From: Mbuso Dlamini <mbuso.dlamini@palacegroup.co.za>
Sent: Monday, May 9, 2022 2:04 PM
To: Els, Neels <Neels.Els@rmb.co.za>
Cc: mbuso.dlamini@palacegroup.co.za
Subject: FRIENDSHELF 1287 RMB BANK ACCOUNTS - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Dear Neels

I hope that you are fine.

Kindly send me the latest bank statements for the following Friedshelf 1287 Pty Ltd bank accounts from inception (the 01 January 2011) to date :

1. Collection Account Number SMT-DC11A00276
2. Operating Account Number SMT-DC11A00277

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3. Deposit Account Number SMT-DC15J00340
4. Account Number 0000003443
5. Actom Pref Share 3444 Account Number 0000003444
6. Asset Account Number DC11B00217
7. Asset Account Number DC11B00216
8. Tax Provision Liability Account Number SMT-DC11B00205
9. Loan Account Number ??????
10. Any other Friedshelf 1287 Pty Ltd bank accounts held at RMB.

Waiting to receive the above as soon as possible.

Kind Regards
Mbuso Dlamini

This e-mail is subject to a disclaimer, available at

http://www.rmb.co.za/web/elements.nsf/online/disclaimer-communications.html

Annexure C1.13

Email to FRBL's Group CEO Requesting Bank Records of PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd

FW: Very important First Rand Bank Limited documents

06/05/2024 13:02

From: "Mbuso" <mbuso@icon.co.za>

To: mary.vilakazi@firstrand.co.za

Cc: "Mulder, Barbi" <barbi.mulder@firstrand.co.za>,busi.zwane@firstrand.co.za,admin@palacegroup.co.za

Good Day Ms Mary Vilakazi

It has been two weeks since we requested the below information from First Rand Bank Limited; but we have not received anything to date.

When can we expect to receive the information from First Rand Bank Limited.

Kind Regards
Mbuso Dlamini

From: Mbuso <mbuso@icon.co.za>
Sent: Monday, April 22, 2024 10:33 AM
To: 'mary.vilakazi@firstrand.co.za' <mary.vilakazi@firstrand.co.za>
Cc: 'busi.zwane@firstrand.co.za' <busi.zwane@firstrand.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: RE: Very important First Rand Bank Limited documents

FIRST RAND BANK LIMITED
Attention : COO / CEO - Ms Mary Vilakazi (011 282 8788)
4th Floor, Merchant Place
Sandton.

I hope that you are fine.

Kindly assist us with the following as soon as possible.

1. PEG HR Solutions Pty Ltd:
    a. Account Name "Asset", bank account number SMT-LC08K00082:
        i. Attachment 1 : Missing page 18 covering the period 19 July 2012 to 20 August 2012 as shown missing in attachment 1; please send us this missing page as soon as possible.
        ii. Attachment 2 : Missing page 23 covering the period 20 January 2013 to 28 March 2013 as shown missing in attachment 2; please send us this missing page as soon as possible.

    b. Account Name "PEG HR Solutions 2527 Term", bank account number 0000002527:
        i. Attachment 3 : The two pages covering the period from 18 November 2014 to 05 September 2018. Please explain what happened in this bank account / statement from the 1st of November 2015 to the 2nd of November 2015. Who manipulated

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the bank statement, who was paid this money, who gave the instruction for this to be done because I did not give any consent or permission for this to be done on my (Peg HR Solutions Pty Ltd) bank account.

c. Attachment 4 : Bank account / statement "PEG HR Solutions 2527 Term", account number 0000002527. What happened to the money (R5m) that was taken out of this bank account on or about the 18 June 2014 and authorized that money be taken out of this bank account, because I did not do so. On a different but related matter to this attachment 4, is the second page of this attachment 4 supposed to be page 18 of the bank statement, i.e. a continuation of the bank statement? Please clarify and confirm.

d. Please urgently send me all bank statements of PEG HR Solutions Pty Ltd, which include but are not limited to the following, from inception to date:
   i. Account Name "Loan Account".
   ii. Account Name "Past Due", account number SMT-LC11I00171.
   iii. Account Name "PEG HR Solutions 2527 Term", account number 0000002527.
   iv. Account Name "PEG HR Term Loan 7298 R25m", account number 0000007298.
   v. Any other bank accounts held at First Rand Bank Limited in the name of PEG HR Solutions Pty Ltd.

2. Friedshelf 1287 Pty Ltd
   a. Please send me Friedshelf 1287 Pty Ltd bank statements which include but are not limited to the following, from inception to date:
      i. Loan Account.
      ii. Collection Account Number SMT – DC11A00276.
      iii. Operating Account Number SMT – DC11A00277.
      iv. Deposit Account Number SMT – DC15J00340.
      v. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Thanking you and your team in advance.

Kind Regards
Mbuso Dlamini
0826060492

Attachments:
1. Account Name- Asset- bank account number SMT-LC08K00082 - Missing Page 18.
2. Account Name – Asset- bank account number SMT-LC08K00082 - Missing Page 23.
3. Account Name – PEG HR Solutions 2527 Term – bank account number 0000002527, the two pages covering period 18 November 2014 to 05 September 2018.
4. Account Name – PEG HR Solutions 2527 Term – bank account number 0000002527 - Bank statements - PEG HR Solutions 2527 Term - R5m out of the bank account.

CC : Ms Busi Zwane (011 282 8370)

Attachments:

- Attachment 1 - Bank Statements - Asset - Account No. SMT-LC08K00082 - Missing Page 18.pdf
- Attachment 2 - Bank Statements - Asset - Account No. SMT-LC08K00082 - Missing Page 23.pdf
- Attachment 3 - Bank statements - PEG HR Solutions 2527 Term - from 18 Nov 2014 to 05 Sep 2018.pdf

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- Attachment 4 - Bank statements - PEG HR Solutions 2527 Term - R5m out of the bank account.pdf

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Annexure C1.14

Email to FRBL's Group CEO's PA after Response from Group CEO's PA Regarding Request for Bank Records of PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd

RE: Very important First Rand Bank Limited documents - [External Email]

06/05/2024 16:12

From: "Mbuso" <mbuso@icon.co.za>

To: "Mulder, Barbi" <barbi.mulder@firstrand.co.za>,"Vilakazi, Mary" <Mary.Vilakazi@firstrand.co.za>

Cc: "Zwane, Busi" <Busi.Zwane@firstrand.co.za>,admin@palacegroup.co.za

Good afternoon Barbi

Mr Mashaba responded to a completely different matter.

I have not discussed the matters raised in this email with Mr Mashaba.

Mr Mashaba does not know the contents of this email.

Must I send the email to him? Please advise so that I can send the email to him as soon as possible.

Kind Regards
Mbuso.

From: Mulder, Barbi <barbi.mulder@firstrand.co.za>
Sent: Monday, May 6, 2024 3:56 PM
To: mbuso@icon.co.za; Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Zwane, Busi <Busi.Zwane@firstrand.co.za>; admin@palacegroup.co.za
Subject: RE: Very important First Rand Bank Limited documents - [External Email]

Good afternoon Mr Dlamini – thank you for your email. I confirm that Mr Mashaba responded to your email on Wednesday 24 April 2024 at 2:18pm.

Kind regards,

Barbara Mulder | EXECUTIVE PA TO MARY VILAKAZI (CEO) | FirstRand Limited
4th Floor, 4 Merchant Place, Corner Fredman Drive and Rivonia Road, Sandton, 2196
T +27 11 282 8788 | **M** +27 79 492 5329
barbi.mulder@firstrand.co.za | **www.firstrand.co.za**

17-283
17-283

Certain entities within the FirstRand group are authorised financial services and credit providers.
Please consider the environment before printing.

From: Mbuso <mbuso@icon.co.za>
Sent: Monday, May 6, 2024 1:03 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; Zwane, Busi <Busi.Zwane@firstrand.co.za>; admin@palacegroup.co.za
Subject: FW: Very important First Rand Bank Limited documents - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Ms Mary Vilakazi

It has been two weeks since we requested the below information from First Rand Bank Limited; but we have not received anything to date.

When can we expect to receive the information from First Rand Bank Limited.

Kind Regards
Mbuso Dlamini

From: Mbuso <mbuso@icon.co.za>
Sent: Monday, April 22, 2024 10:33 AM
To: 'mary.vilakazi@firstrand.co.za' <mary.vilakazi@firstrand.co.za>
Cc: 'busi.zwane@firstrand.co.za' <busi.zwane@firstrand.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: RE: Very important First Rand Bank Limited documents

FIRST RAND BANK LIMITED
Attention : COO / CEO - Ms Mary Vilakazi (011 282 8788)
4th Floor, Merchant Place
Sandton.

I hope that you are fine.

Kindly assist us with the following as soon as possible.

1. PEG HR Solutions Pty Ltd:
    a. Account Name "Asset", bank account number SMT-LC08K00082:
        i. Attachment 1 : Missing page 18 covering the period 19 July 2012 to 20 August 2012 as shown missing in attachment 1; please send us this missing page as soon as possible.

17-284

ii. Attachment 2 : Missing page 23 covering the period 20 January 2013 to 28 March 2013 as shown missing in attachment 2; please send us this missing page as soon as possible.

b. Account Name "PEG HR Solutions 2527 Term", bank account number 0000002527:
   i. Attachment 3 : The two pages covering the period from 18 November 2014 to 05 September 2018. Please explain what happened in this bank account / statement from the 1st of November 2015 to the 2nd of November 2015. Who manipulated the bank statement, who was paid this money, who gave the instruction for this to be done because I did not give any consent or permission for this to be done on my (Peg HR Solutions Pty Ltd) bank account.

c. Attachment 4 : Bank account / statement "PEG HR Solutions 2527 Term", account number 0000002527. What happened to the money (R5m) that was taken out of this bank account on or about the 18 June 2014 and authorized that money be taken out of this bank account, because I did not do so. On a different but related matter to this attachment 4, is the second page of this attachment 4 supposed to be page 18 of the bank statement, i.e. a continuation of the bank statement? Please clarify and confirm.

d. Please urgently send me all bank statements of PEG HR Solutions Pty Ltd, which include but are not limited to the following, from inception to date:
   i. Account Name "Loan Account".
   ii. Account Name "Past Due", account number SMT-LC11I00171.
   iii. Account Name "PEG HR Solutions 2527 Term", account number 0000002527.
   iv. Account Name "PEG HR Term Loan 7298 R25m", account number 0000007298.
   v. Any other bank accounts held at First Rand Bank Limited in the name of PEG HR Solutions Pty Ltd.

2. Friedshelf 1287 Pty Ltd
   a. Please send me Friedshelf 1287 Pty Ltd bank statements which include but are not limited to the following, from inception to date:
      i. Loan Account.
      ii. Collection Account Number SMT – DC11A00276.
      iii. Operating Account Number SMT – DC11A00277.
      iv. Deposit Account Number SMT – DC15J00340.
      v. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Thanking you and your team in advance.

Kind Regards
Mbuso Dlamini
0826060492

Attachments:
1. Account Name- Asset- bank account number SMT-LC08K00082 - Missing Page 18.
2. Account Name – Asset- bank account number SMT-LC08K00082 - Missing Page 23.
3. Account Name – PEG HR Solutions 2527 Term – bank account number 0000002527, the two pages covering period 18 November 2014 to 05 September 2018.
4. Account Name – PEG HR Solutions 2527 Term – bank account number 0000002527 - Bank statements - PEG HR Solutions 2527 Term - R5m out of the bank account.

CC : Ms Busi Zwane (011 282 8370)

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17-285

This e-mail is subject to a disclaimer, available at https://www.firstrand.co.za/email-disclaimer/

Attachments:

- image001.jpg

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Annexure C1.15

Response from FRBL's Natalie Rodrigues Regarding Request for Bank Records of PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd

RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

20/11/2024 22:24

From: "Rodrigues, Natalie" <Natalie.Rodrigues@fnb.co.za>

To: mbuso@icon.co.za

Cc: "Pillay, Dhakshini" <Dhakshini.Pillay@rmb.co.za>,admin@palacegroup.co.za,"Ndamase, Bongi" <Bongi.Ndamase@rmb.co.za>

Dear Mr. Mbuso, Thank you kindly. My colleagues included in this email are attending to your request. Warm Regards Natalie Rodrigues

From: Mbuso <mbuso@icon.co.za>
Sent: Wednesday, November 20, 2024 8:47 PM
To: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Cc: Pillay, Dhakshini <Dhakshini.Pillay@rmb.co.za>; admin@palacegroup.co.za
Subject: RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Good Day

I sent it to the office of the CEA on the 22nd of April 2024 (copied Ms Busi Zwane) and again on the 06th May 2024 (copied Ms Busi Zwane and Barbi Mulder); and I have not received same to date.

I copied Ms Busi

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Wednesday, 20 November 2024 12:04
To: mbuso@icon.co.za
Cc: Pillay, Dhakshini <Dhakshini.Pillay@rmb.co.za>
Subject: FW: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Good day Mr Ephraim Mbuso Dlamini

We acknowledge your email and are giving this matter our urgent attention.
If possible, can you please provide any additional info as to who you initially sent your request for bank statements to. Would sincerely appreciate.

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17-288

Kind regards
Natalie Rodrigues

From: Mbuso <mbuso@icon.co.za>
Sent: Tuesday, November 19, 2024 9:03 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; busi.zwane@firstrand.co.za <busi.zwane@firstrand.co.za>; admin@palacegroup.co.za <admin@palacegroup.co.za>; mbuso@icon.co.za <mbuso@icon.co.za>
Subject: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Ms Mary Vilakazi

Kindly and urgently provide us with **a copy of Friedshelf 1287 (RF) Pty Ltd Loan Account bank statement from inception to date**.

You are kindly advised that should not receive a copy of this bank statement by close of business on the 26th November 2024, I will have no choice but to approach any or all of the following, i.e. the National Credit Regulator, Financial Services Conduct Authority, Banking Ombud, Prudential Authority, Financial Intelligence Centre, Public Protector, etc. for their assistance.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

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If you are unable to access our website, please contact us to send you a copy of the email disclaimer or privacy notice.

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Visit the FNB website and view the email disclaimer and privacy notice by clicking the "About FNB + Legal" and "Legal Matters" links.
If you are unable to access our website, please contact us to send you a copy of the email disclaimer or privacy notice.

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Annexure C1.16

Follow Up Request Sent to FRBL's Natalie Rodrigues Regarding Request for Bank Records of Friedshelf (RF) 1287 Pty Ltd

RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

27/11/2024 10:12

From: "Mbuso" <mbuso@icon.co.za>

To: "Rodrigues, Natalie" <Natalie.Rodrigues@fnb.co.za>,mary.vilakazi@firstrand.co.za

Cc: "Pillay, Dhakshini" <Dhakshini.Pillay@rmb.co.za>,admin@palacegroup.co.za,"Ndamase, Bongi" <Bongi.Ndamase@rmb.co.za>

Good day

I have been waiting to receive these bank statements and requested that they be sent to us by yesterday, the 26 November 2024.

This has obviously not happened.

I guess that this therefore means that I have to get assistance from the various institutions in the country mentioned below in order to get assistance with this matter.

Kind Regards
EM Dlamini
Director.

From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, 21 November 2024 08:24
To: 'Rodrigues, Natalie' <Natalie.Rodrigues@fnb.co.za>
Cc: 'Pillay, Dhakshini' <Dhakshini.Pillay@rmb.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'Ndamase, Bongi' <Bongi.Ndamase@rmb.co.za>
Subject: RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Good Day

Thank you for your response.

Please make sure that they send me the following bank statements for the abovementioned entity, namely Friedshelf 1287 (RF) Pty Ltd, from inception to date:

1. Loan account; and
2. Capital Redemption Reserve Account.

17-292
17-292

As mentioned below, I requested these from the office of the CEO on the 22nd of April 2024 (copied Ms Busi Zwane) and again on the 06th May 2024 (copied Ms Busi Zwane and Barbi Mulder); and I have not received same to date.

I hope to receive these in a day or two, but definitely before the close of business on the 26 November 2024, failing which I will approach the institutions mentioned below, for their assistance on this matter.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Wednesday, 20 November 2024 22:25
To: mbuso@icon.co.za
Cc: Pillay, Dhakshini <Dhakshini.Pillay@rmb.co.za>; admin@palacegroup.co.za; Ndamase, Bongi <Bongi.Ndamase@rmb.co.za>
Subject: RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Dear Mr. Mbuso, Thank you kindly. My colleagues included in this email are attending to your request. Warm Regards Natalie Rodrigues

From: Mbuso <mbuso@icon.co.za>
Sent: Wednesday, November 20, 2024 8:47 PM
To: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Cc: Pillay, Dhakshini <Dhakshini.Pillay@rmb.co.za>; admin@palacegroup.co.za
Subject: RE: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Good Day

I sent it to the office of the CEA on the 22nd of April 2024 (copied Ms Busi Zwane) and again on the 06th May 2024 (copied Ms Busi Zwane and Barbi Mulder); and I have not received same to date.

I copied Ms Busi

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

17-293
17-293

From: Rodrigues, Natalie <Natalie.Rodrigues@fnb.co.za>
Sent: Wednesday, 20 November 2024 12:04
To: mbuso@icon.co.za
Cc: Pillay, Dhakshini <Dhakshini.Pillay@rmb.co.za>
Subject: FW: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

Good day Mr Ephraim Mbuso Dlamini

We acknowledge your email and are giving this matter our urgent attention.
If possible, can you please provide any additional info as to who you initially sent your request for bank statements to. Would sincerely appreciate.

Kind regards
Natalie Rodrigues

From: Mbuso <mbuso@icon.co.za>
Sent: Tuesday, November 19, 2024 9:03 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; busi.zwane@firstrand.co.za <busi.zwane@firstrand.co.za>; admin@palacegroup.co.za <admin@palacegroup.co.za>; mbuso@icon.co.za <mbuso@icon.co.za>
Subject: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd - [External Email]

CAUTION - EXTERNAL SENDER - Please be careful when opening links and attachments! FNB Cyber Security Office.

Good Day Ms Mary Vilakazi

Kindly and urgently provide us with **a copy of Friedshelf 1287 (RF) Pty Ltd Loan Account bank statement from inception to date**.

You are kindly advised that should not receive a copy of this bank statement by close of business on the 26th November 2024, I will have no choice but to approach any or all of the following, i.e. the National Credit Regulator, Financial Services Conduct Authority, Banking Ombud, Prudential Authority, Financial Intelligence Centre, Public Protector, etc. for their assistance.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

17-294
17-294

CC : Ms Busi Zwane (011 282 8370)

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17-295

Annexure C1.17

Final Response from FRBL's Group CEO – Bank Records Cannot be Located

mbuso@icon.co.za

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Friday, 29 November 2024 12:32
To: mbuso@icon.co.za
Cc: FNB CEOComplaints
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for your email.

Our team is actively working on the matter, please be assured that we are giving your request the attention it deserves.

We understand the importance of this issue and appreciate your understanding during this process.

Yours sincerely.

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service
CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Friday, November 29, 2024 8:50 AM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

Good Day Samantha

Please try to find the following and send me the bank statements from inception to date, which may assist us, because there is a link between PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd:

1. Please urgently send me all bank statements of PEG HR Solutions Pty Ltd, which include but are not limited to the following, from inception to date:
    a. Account Name "Loan Account".
    b. Account Name "Past Due", account number SMT-LC11I00171.
    c. Account Name "PEG HR Solutions 2527 Term", account number 0000002527.
    d. Account Name "PEG HR Term Loan 7298 R25m", account number 0000007298.
    e. Any other bank accounts held at First Rand Bank Limited in the name of PEG HR Solutions Pty Ltd.

Please search for them using the account numbers above, my ID number 561018 5771 087 as well as using the account / company name PEG HR Solutions Pty Ltd. Did you try searching for the Friedshelf 1287 (RF) Pty Ltd bank accounts using the account / company name Friedhslef 1287 (RF) Pty Ltd?

Once you get the PEG HR Solutions Pty Ltd bank accounts, we will try to link back to Friedshelf 1287 (RF) Pty Ltd.

Please let me know if you are unable to find the PEG HR Solutions Pty Ltd so that we may use more information to find these bank accounts.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of PEG HE Solutions Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Friday, 29 November 2024 08:36
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

Dear Mr Dlamini.

Thank you for taking the time to answer my call.

As per telephonic discussion,we are unable to locate the below as per your request.

1. Account Holder : Friedshelf 1287 (RF) Pty Ltd
2. Account Numbers:
    a. Loan Account: has not been issued to us from inception to date.
    b. Capital Redemption Reserve Account: has not been issued to us from inception to date.
    c. Other Accounts we have with yourselves:
        i. Collection Account Number SMT – DC11A00276.
        ii. Operating Account Number SMT – DC11A00277.
        iii. Deposit Account Number SMT – DC15J00340.
    d. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Kindly provide the business account number for Friedshelf 1287 (RF) Pty Ltd or documentation that may assist us to locate the banking profile.

Yours sincerely.

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service
CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, November 28, 2024 5:19 PM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

17-298

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Good day

Thanks for your quick response. My ID number is 561018 5771 087.

I hope that this helps you, but please let me know if the ID number does not help you, so that I may send you more information.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Thursday, 28 November 2024 15:46
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for your response.

We are still unable to locate the banking profile.

May I please request that you provide your Identity number and contact number, once received we will be able to address your request more effectively.

Kind Regards

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, November 28, 2024 3:06 PM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

17-299

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Good day Samantha

Thank you for coming back to us.

1. Account Holder : Friedshelf 1287 (RF) Pty Ltd
2. Account Numbers:
    a. Loan Account: has not been issued to us from inception to date.
    b. Capital Redemption Reserve Account: has not been issued to us from inception to date.
    c. Other Accounts we have with yourselves:
        i. Collection Account Number SMT – DC11A00276.
        ii. Operating Account Number SMT – DC11A00277.
        iii. Deposit Account Number SMT – DC15J00340.
    d. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Please send us bank statements from inception to date for 2a and 2b as soon as possible. Please also send us for 2c (i) to 2c (iii) as well as 2d if you do have 2d.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Thursday, 28 November 2024 13:53
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for reaching out to the CEO's Desk.

We appreciate your email.

To better assist you, could you please provide more details regarding your inquiry.

Specifically, we would need the following information:

1. Business Account Number

Once we have this information, we will be able to address your request more effectively.

Thank you for your understanding and cooperation.

17-300

Yours sincerely,

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Wednesday, November 27, 2024 7:05 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; busi.zwane@firstrand.co.za; admin@palacegroup.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

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Good Day Ms Mary Vilakazi

This is a follow up on my request that I sent to you on the 19th of November 2024.

We have not received the information to date, i.e. up to now. I had asked that you send us same by close of business yesterday, the 26 November 2024.

If we do not receive the following bank statements of Friedshelf 1287 (RF) Pty Ltd by tomorrow at 12h00, we will have no choice but to request assistance from the bodies mentioned below:

1. Loan Account from inception to date; and
2. Capital Redemption Reserve Account from inception to date.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

From: Mbuso <mbuso@icon.co.za>
Sent: Tuesday, 19 November 2024 21:02
To: 'mary.vilakazi@firstrand.co.za' <mary.vilakazi@firstrand.co.za>
Cc: 'Mulder, Barbi' <barbi.mulder@firstrand.co.za>; 'busi.zwane@firstrand.co.za' <busi.zwane@firstrand.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd

Good Day Ms Mary Vilakazi

17-301

Kindly and urgently provide us with **a copy of Friedshelf 1287 (RF) Pty Ltd Loan Account bank statement from inception to date**.

You are kindly advised that should not receive a copy of this bank statement by close of business on the 26th November 2024, I will have no choice but to approach any or all of the following, i.e. the National Credit Regulator, Financial Services Conduct Authority, Banking Ombud, Prudential Authority, Financial Intelligence Centre, Public Protector, etc. for their assistance.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

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17-302

BUNDLE 10

RESPONDENT'S CORRESPONDENCE IS RELEVANT TO RECORD AVAILABILITY

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Local Division, Johannesburg

CASE NO: **2024-092685**

In the matter between:

FIRSTRAND BANK LIMITED Plaintiff / Applicant / Appellant

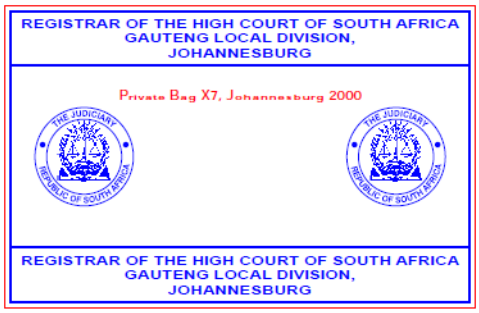
and

Ephraim Dlamini ,EPHRAIM MBUSO DLAMINI Defendant / Respondent

---

Annexure 01

NOTE: **This document was filed electronically by the Registrar on 27/6/2025 at 7:16:54 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of High Court , Gauteng Local Division,Johannesburg

Mbuso

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Friday, 29 November 2024 12:32
To: mbuso@icon.co.za
Cc: FNB CEOComplaints
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for your email.

Our team is actively working on the matter, please be assured that we are giving your request the attention it deserves.

We understand the importance of this issue and appreciate your understanding during this process.

Yours sincerely.

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service
CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Friday, November 29, 2024 8:50 AM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

Good Day Samantha

Please try to find the following and send me the bank statements from inception to date, which may assist us, because there is a link between PEG HR Solutions Pty Ltd and Friedshelf (RF) 1287 Pty Ltd:

1. Please urgently send me all bank statements of PEG HR Solutions Pty Ltd, which include but are not limited to the following, from inception to date:
    a. Account Name "Loan Account".
    b. Account Name "Past Due", account number SMT-LC11I00171.
    c. Account Name "PEG HR Solutions 2527 Term", account number 0000002527.
    d. Account Name "PEG HR Term Loan 7298 R25m", account number 0000007298.
    e. Any other bank accounts held at First Rand Bank Limited in the name of PEG HR Solutions Pty Ltd.

Please search for them using the account numbers above, my ID number 561018 5771 087 as well as using the account / company name PEG HR Solutions Pty Ltd. Did you try searching for the Friedshelf 1287 (RF) Pty Ltd bank accounts using the account / company name Friedhslef 1287 (RF) Pty Ltd?

Once you get the PEG HR Solutions Pty Ltd bank accounts, we will try to link back to Friedshelf 1287 (RF) Pty Ltd.

1

Please let me know if you are unable to find the PEG HR Solutions Pty Ltd so that we may use more information to find these bank accounts.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of PEG HE Solutions Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Friday, 29 November 2024 08:36
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

Dear Mr Dlamini.

Thank you for taking the time to answer my call.

As per telephonic discussion,we are unable to locate the below as per your request.

1. Account Holder : Friedshelf 1287 (RF) Pty Ltd
2. Account Numbers:
    a. Loan Account: has not been issued to us from inception to date.
    b. Capital Redemption Reserve Account: has not been issued to us from inception to date.
    c. Other Accounts we have with yourselves:
        i. Collection Account Number SMT – DC11A00276.
        ii. Operating Account Number SMT – DC11A00277.
        iii. Deposit Account Number SMT – DC15J00340.
    d. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Kindly provide the business account number for Friedshelf 1287 (RF) Pty Ltd or documentation that may assist us to locate the banking profile.

Yours sincerely.

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, November 28, 2024 5:19 PM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

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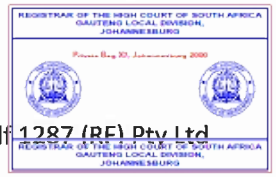
Good day

Thanks for your quick response. My ID number is 561018 5771 087.

I hope that this helps you, but please let me know if the ID number does not help you, so that I may send you more information.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Thursday, 28 November 2024 15:46
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date



Dear Mr Dlamini.

Thank you for your response.

We are still unable to locate the banking profile.

May I please request that you provide your Identity number and contact number, once received we will be able to address your request more effectively.

Kind Regards

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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For more information regarding the full legal disclaimer pertaining to this email, visit our website or download the FNB App.

From: Mbuso <mbuso@icon.co.za>
Sent: Thursday, November 28, 2024 3:06 PM
To: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Cc: mbuso@icon.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

3

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Good day Samantha

Thank you for coming back to us.

1. Account Holder : Friedshelf 1287 (RF) Pty Ltd
2. Account Numbers:
    a. Loan Account: has not been issued to us from inception to date.
    b. Capital Redemption Reserve Account: has not been issued to us from inception to date.
    c. Other Accounts we have with yourselves:
        i. Collection Account Number SMT – DC11A00276.
        ii. Operating Account Number SMT – DC11A00277.
        iii. Deposit Account Number SMT – DC15J00340.
    d. Any other bank accounts of Friedshelf 1287 Pty Ltd, held at First Rand bank Limited in the name of Friedshelf 1287 Pty Ltd.

Please send us bank statements from inception to date for 2a and 2b as soon as possible. Please also send us for 2c (i) to 2c (iii) as well as 2d if you do have 2d.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

From: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Sent: Thursday, 28 November 2024 13:53
To: mbuso@icon.co.za
Cc: FNB CEOComplaints <CEOComplaints@fnb.co.za>
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date

Dear Mr Dlamini.

Thank you for reaching out to the CEO's Desk.

We appreciate your email.

To better assist you, could you please provide more details regarding your inquiry.

Specifically, we would need the following information:

1. Business Account Number

Once we have this information, we will be able to address your request more effectively.

Thank you for your understanding and cooperation.

4

Yours sincerely,

Samantha Yassine
Service Recovery Advisor
Personal and Private Segment: Chief Operating Office
COO Service

CEOcomplaints@fnb.co.za
+27 87 311 8039

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From: Mbuso <mbuso@icon.co.za>
Sent: Wednesday, November 27, 2024 7:05 PM
To: Vilakazi, Mary <Mary.Vilakazi@firstrand.co.za>
Cc: Mulder, Barbi <barbi.mulder@firstrand.co.za>; busi.zwane@firstrand.co.za; admin@palacegroup.co.za
Subject: RE: Bank Statements - Loan Account and Capital Redemption Reserve Account of Friedshelf 1287 (RF) Pty Ltd from inception to date - [External Email]

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REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG

Good Day Ms Mary Vilakazi

This is a follow up on my request that I sent to you on the 19th of November 2024.

We have not received the information to date, i.e. up to now. I had asked that you send us same by close of business yesterday, the 26 November 2024.

If we do not receive the following bank statements of Friedshelf 1287 (RF) Pty Ltd by tomorrow at 12h00, we will have no choice but to request assistance from the bodies mentioned below:

1. Loan Account from inception to date; and
2. Capital Redemption Reserve Account from inception to date.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

From: Mbuso <mbuso@icon.co.za>
Sent: Tuesday, 19 November 2024 21:02
To: 'mary.vilakazi@firstrand.co.za' <mary.vilakazi@firstrand.co.za>
Cc: 'Mulder, Barbi' <barbi.mulder@firstrand.co.za>; 'busi.zwane@firstrand.co.za' <busi.zwane@firstrand.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'mbuso@icon.co.za' <mbuso@icon.co.za>
Subject: Bank Statements - Loan Account Friedshelf 1287 (RF) Pty Ltd

Good Day Ms Mary Vilakazi

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Kindly and urgently provide us with **a copy of Friedshelf 1287 (RF) Pty Ltd Loan Account bank statement from inception to date**.

You are kindly advised that should not receive a copy of this bank statement by close of business on the 26th November 2024, I will have no choice but to approach any or all of the following, i.e. the National Credit Regulator, Financial Services Conduct Authority, Banking Ombud, Prudential Authority, Financial Intelligence Centre, Public Protector, etc. for their assistance.

Thanking you in advance.

Kind Regards
Ephraim Mbuso Dlamini
For and on behalf of Friedshelf 1287 (RF) Pty Ltd
Director.

CC : Ms Busi Zwane (011 282 8370)

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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/06) Respondent

HEADS OF ARGUMENT
ON BEHALF OF THE APPLICANT
IN SUPPORT OF THE APPLICATION FOR RESCISSION OF JUDGEMENT
HEARING DATE: _____

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TABLE OF PRINCIPAL AUTHORITIES

The Applicant relies principally on the following authorities:

1. *Grant v Plumbers (Pty) Ltd*
2. *Chetty v Law Society, Transvaal*
3. *Colyn v Tiger Food Industries Ltd t/a Meadow Feed Mills (Cape)*
4. *De Wet v Western Bank Ltd*
5. *Senekal v Trust Bank of Africa Ltd*
6. *Schierhout v Union Government*
7. **Paulsen and Another v Slip Knot Investments 777 (Pty) Ltd** (statutory in duplum rule under section 103(5) of the National Credit Act)
8. **Nedbank Ltd v National Credit Regulator** (application *and interpretation of section 103(5), if this authority is already included in your Judicial Authorities Bundle)*

A separate List of Authorities accompanies these Heads of Argument, setting out the full citations, the legal principles relied upon, and the manner in which each authority applies to this rescission application, including the requirements for rescission and the statutory *in duplum* rule contained in section 103(5) of the National Credit Act.

Abbreviation	Meaning
FA	Founding Affidavit
AA	Answering Affidavit
RA	Replying Affidavit
AEB	Advocacy Evidence Bundle
JAB	Judicial Authorities Bundle
CL	CaseLines

1. INTRODUCTION

1. These Heads of Argument are filed on behalf of the Applicant, Mr Ephraim Mbuso Dlamini, in support of his application for rescission of the judgment granted by this Honourable Court on 22 October 2019.

2. The application is opposed by the Respondent, FirstRand Bank Limited.

3. The principal question for determination is whether the Applicant has established the recognised requirements for rescission, namely:

   3.1 a reasonable explanation for the circumstances giving rise to the judgment;

   3.2 a bona fide application brought in good faith; and

   3.3 a bona fide defence carrying prima facie prospects of success.

4. The Applicant respectfully submits that those requirements are satisfied on the papers.

5. The Applicant does not ask this Court, at this stage, to determine finally every disputed accounting issue between the parties. The question for determination is whether the evidence disclosed on the papers establishes a bona fide defence carrying prima facie prospects of success and therefore satisfies the legal requirements for rescission.

6. The Applicant's case is that the judgment sought to be rescinded rests upon an accounting foundation that is materially disputed. The evidential basis for these disputes has been organised into the Applicant's Advocacy Evidence Bundles for ease of reference, namely:

   6.1 Statement of Account (Advocacy Evidence Bundle 1);

   6.2 Unexplained Bank Balance Movement (Bundle 2);

   6.3 Principal Amount (Bundle 3);

   6.4 Interest Calculation (Bundle 4);

   6.5 Summary Claim (Bundle 5);

   6.6 Certificate of Balance (Bundle 6);

   6.7 Reconstruction (Bundle 7);

   6.8 Payments (Bundle 8);

   6.9 Underlying Accounting Records (Bundle 9);

   6.10 Respondent's Correspondence (Bundle 10).

7. The Applicant respectfully submits that these matters are not collateral complaints. They go to the foundation of the amount claimed, the Certificate of Balance relied upon, and the judgment ultimately granted.

8. The Applicant will submit that, where the judgment debt is founded upon disputed accounting, and where the

Applicant has placed before the Court evidence raising material questions regarding that accounting, the Court should not shut the door on rescission merely because the Respondent asserts finality.

9. The authorities recognise that rescission requires a reasonable explanation and a bona fide defence with prima facie prospects of success. The Court is not required at this stage to conduct the final trial of the accounting dispute. It is required to determine whether sufficient cause has been shown for the judgment to be rescinded and for the dispute to be properly ventilated.

10. The Applicant respectfully submits that the Founding Affidavit, the Replying Affidavit and the annexures demonstrate sufficient cause. The disputed accounting record, the challenged Certificate of Balance, the PEG HR reconstruction, the payment schedule and the correspondence concerning the availability of records collectively disclose a bona fide defence.

11. These Heads of Argument form part of an integrated hearing package designed to assist the Court by linking each legal proposition to the relevant Advocacy Evidence Bundle, which in turn cross-references the supporting affidavits, annexures already before the Court, the applicable judicial authorities and the corresponding CaseLines record. This integrated structure enables efficient judicial navigation between:

11.1 the applicable legal principles;

11.2 the authorities relied upon;

11.3 the evidence contained in the affidavits and annexures;

11.4 the relevant CaseLines references; and

11.5 the relief sought.

12. The Applicant accordingly submits that the judgment of 22 October 2019 should be rescinded and that the Applicant should be granted the relief set out in the draft order.

Integrated Hearing Package

To facilitate the efficient determination of the issues before this Honourable Court, the Applicant has prepared an integrated hearing package consisting of:

- these Heads of Argument;
-
- Advocacy Evidence Bundles 1–10;
- the Judicial Authorities Bundle;
- the Practice Note;
- the Litigation and Accounting Chronology;

- the Draft Order;
- the Oral Argument; and
- the Hearing Readiness Package.

The hearing package has been designed to enable the Court to move efficiently between the legal propositions advanced in these Heads of Argument, the relevant pleadings, the supporting documentary evidence, the applicable judicial authorities and the CaseLines record.

The Advocacy Evidence Bundles do not introduce new evidence. Their purpose is to organise, summarise and cross-reference evidence already contained in the Founding Affidavit, the Answering Affidavit, the Replying Affidavit, their annexures and the documents already before this Honourable Court.

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2. ROADMAP

13. These Heads are structured as follows.

14. First, the Applicant sets out the procedural history necessary to place the rescission application in context.

15. Second, the Applicant identifies the issues for determination.

16. Third, the Applicant sets out the applicable legal principles governing rescission, including the requirements of a reasonable explanation, bona fides, and a bona fide defence carrying prima facie prospects of success.

17. Fourth, the Applicant applies those principles to the evidence in the record.

18. Fifth, the Applicant addresses the accounting foundation of the judgment, including the statement of account, the summary claim, the Certificate of Balance, the payment record, the PEG HR reconstruction and the availability of underlying records.

19. Sixth, the Applicant addresses the interests of justice and the discretion of the Court.

20. Finally, the Applicant sets out the relief sought.

21. The Applicant respectfully submits that, when the legal principles are applied to the evidence, the rescission application satisfies the recognised legal test and the interests of justice favour the granting of rescission.

Navigation of these Heads

For ease of reference, these Heads of Argument identify, where appropriate, the corresponding Advocacy Evidence Bundle, the relevant pleadings, the supporting annexures, the applicable judicial authorities and the relevant CaseLines references.

The Applicant respectfully submits that this integrated structure has been adopted to facilitate efficient judicial navigation between the legal propositions advanced, the supporting evidential record and the relief sought in this application.

PART A - PROCEDURAL HISTORY

Question for Determination

What procedural history is necessary for the proper determination of this rescission application?

Introduction to Part A

The purpose of this Part is to place the present rescission application in its proper procedural context. It identifies only those procedural events that are material to the issues before this Court and which assist the Court in determining whether the requirements for rescission have been established.

---

22. PROCEDURAL HISTORY

22.1 The present application concerns the rescission of the judgment granted by this Honourable Court on 22 October 2019 in favour of the Respondent against the Applicant. (AEB: Procedural History; FA paras 4, 7–10 and 22; Annexure A – Judgment dated 22 October 2019; CaseLines Section 03 – Founding Affidavit; Section 16 – Procedural History and Hearing Readiness.)

22.2 The Applicant thereafter exercised the appellate remedies available in law. The matter served before the Full Court of the Gauteng Division, which dismissed the appeal on 23 June 2021. (FA paras 11–12; AA paras 13–18; Full Bench Order dated 23 June

2021; CaseLines Section 16 – Procedural History and Hearing Readiness.)

22.3 A further petition was pursued to the Supreme Court of Appeal, which was unsuccessful. (FA para 12; AA paras 15 and 18; Supreme Court of Appeal Order; CaseLines Section 16 – Procedural History and Hearing Readiness.)

22.4 The Applicant subsequently sought leave to appeal to the Constitutional Court, which likewise did not grant the relief sought. (FA para 12; AA paras 16–18; Constitutional Court Order; CaseLines Section 16 – Procedural History and Hearing Readiness.)

22.5 The present application is therefore not an appeal against the correctness of the appellate decisions. It is a rescission application directed at the judgment of 22 October 2019 on the grounds set out in the Founding Affidavit and amplified in the Replying Affidavit. (FA paras 4–6, 22–23 and 29–40; RA paras 1.3–1.4 and 4.1–4.6.)

22.6 The Applicant instituted the present rescission proceedings after obtaining and analysing additional documentary material, reconstructing the underlying accounting transactions, and making repeated but unsuccessful efforts to obtain the Respondent's underlying accounting records upon which the

Statement of Account, Summary Claim and Certificate of Balance were founded. (Advocacy Evidence Bundles 1, 6, 7, 9 and 10; FA paras 23–40 and 41–51; RA paras 5.1–5.10 and 6.1–6.25; Annexures B, C, C1, D, E and F; CaseLines Section 03 – Founding Affidavit; Section 13 – Litigation Correspondence; Section 15 – Applicant's Replying Affidavit; Section 16 – Procedural History and Hearing Readiness.)

22.7 The Respondent opposes the application and delivered an Answering Affidavit, to which the Applicant replied by way of a Replying Affidavit. Those affidavits define the issues requiring determination in this application. (AA paras 5–31; RA paras 1.1–1.4, 2.1–2.5, 4.1–4.6, 5.1–5.10 and 6.1–6.25; CaseLines Section 14 – Respondent's Answering Affidavit; Section 15 – Applicant's Replying Affidavit.)

22.8 The Applicant respectfully submits that the issues before this Court are therefore confined to the recognised requirements for rescission and not to the final adjudication of every accounting dispute between the parties. (JAB Authorities A1–A4; FA paras 4–6 and 22–23; RA paras 1.3–1.4 and 4.1–4.6.)

22.9 The accounting issues relied upon by the Applicant are directly relevant because they form part of the evidential foundation upon which the Applicant contends that a bona fide defence carrying prima facie prospects of success has been

disclosed. (Advocacy Evidence Bundles 1–8; FA paras 23–51; RA paras 5.1–5.10 and 6.1–6.25; JAB Authorities A1, A3 and A5.)

Submission

The procedural history demonstrates that the present application is a distinct application for rescission, founded upon the evidential record now before the Court. The Court is therefore required to determine whether that record satisfies the legal requirements for rescission, rather than to revisit the appellate process itself.

Bridge to Part B

Having identified the procedural context within which this application arises, the next question is:

What are the issues that this Court must determine in deciding whether rescission should be granted?

PART B - ISSUES FOR DETERMINATION

Question for Determination

What issues must this Court determine in deciding whether the Applicant has established sufficient cause for rescission?

Introduction to Part B

The issues identified below arise from the pleadings and define the questions which the Applicant respectfully submits this

Court is required to determine. They are framed by reference to the legal requirements for rescission and not by reference to every factual dispute appearing in the papers.

---

23. ISSUES FOR DETERMINATION

The Applicant respectfully submits that the determination of this application requires the Court to decide the following principal issues, each of which arises from the pleadings and the recognised legal requirements governing rescission of judgment.

Issue 1

Whether the Applicant has furnished a reasonable and acceptable explanation for the circumstances giving rise to the judgment sought to be rescinded, as contemplated in the applicable authorities.

Supporting Record:

- Founding Affidavit
- Replying Affidavit
- Judicial Authorities Bundle

(FA; RA; Applicable authorities.)

Issue 2

Whether the present rescission application has been brought bona fide and in good faith, rather than as an attempt to delay or frustrate enforcement proceedings.

(FA; RA.)

Supporting Record

- Founding Affidavit
- Replying Affidavit
- Judicial Authorities Bundle

Issue 3

Whether the Applicant has disclosed a bona fide defence carrying prima facie prospects of success by demonstrating objectively supported disputes concerning the accounting foundation of the Respondent's claim.

This issue concerns whether the evidential record, viewed cumulatively, discloses a defence which, if ultimately established at trial, would constitute a proper answer to the Respondent's claim.

This issue includes, among others, the following evidential questions:

- the accounting foundation of the Respondent's claim;
- the statement of account;
- the summary claim calculation;
- the Certificate of Balance;
- the treatment of payments;
- the PEG HR reconstruction;
- the availability of underlying accounting records.

Supporting Record

- Advocacy Evidence Bundles 1–10

- FA
- AA
- RA
- Judicial Authorities Bundle

Issue 4

Whether the cumulative effect of the objective documentary evidence, accounting analyses, correspondence and affidavits discloses genuine factual disputes which ought properly to be determined after full judicial ventilation rather than by permitting the existing judgment to stand.

Supporting Record

- FA
- AA
- RA
- Advocacy Evidence Bundles

Issue 5

Whether, having regard to the recognised legal principles, the evidential record and the interests of justice, this Court should exercise its discretion in accordance with the interests of justice.

Supporting Record

- Entire Record
- Judicial Authorities Bundle

Submission

The Applicant respectfully submits that each of these issues should be answered in the Applicant's favour. The succeeding Parts demonstrate how both the applicable legal principles and the evidential record support that conclusion.

Bridge to Part C

The next question is:

What legal principles govern the exercise of this Court's discretion in an application for rescission?

PART C - APPLICABLE LEGAL PRINCIPLES

Question for Determination

What legal principles govern the determination of an application for rescission of judgment?

Introduction to Part C

The purpose of this Part is to identify the legal principles governing applications for rescission of judgment and the authorities upon which the Applicant relies.

These principles provide the legal framework within which the evidence discussed in the succeeding Parts must be evaluated.

---

24. THE GOVERNING LEGAL PRINCIPLES

The Applicant respectfully submits that the present application falls to be determined in accordance with well-established

principles governing rescission of judgment under South African law.

Those principles have been consistently developed by the courts and may be summarised as follows.

Principle 1

A Court retains a discretion to grant rescission where sufficient cause has been established.

Authorities

- *Grant v Plumbers (Pty) Ltd*
- *De Wet v Western Bank Ltd*

The authorities establish that rescission is an equitable remedy in which the Court retains a wide judicial discretion. That discretion is exercised upon a consideration of all the relevant facts and the interests of justice, rather than by the mechanical application of rigid rules.

The Applicant respectfully submits that the present application falls squarely within those principles because the Court is required to evaluate the cumulative evidential record rather than isolated accounting disputes.

Submission

The Applicant respectfully submits that rescission is an equitable remedy founded upon the interests of justice and the proper exercise of the Court's discretion.

Principle 2

An applicant must furnish a reasonable explanation for the circumstances giving rise to the judgment.

Authorities

- *Grant v Plumbers*
- *Chetty*

Submission

The authorities recognise that the explanation need not be perfect, exhaustive or free from criticism. It must simply be reasonable, bona fide and sufficiently satisfactory to enable the Court to exercise its discretion judicially.

The Applicant submits that his explanation must therefore be assessed together with the objective documentary evidence placed before the Court and not in isolation.

It must demonstrate that the application has been brought honestly and in good faith.

Principle 3

The authorities consistently recognise that an applicant for rescission is not required to prove that the defence will ultimately succeed.

It is sufficient if the affidavits disclose facts which, if established at trial, would constitute a valid defence.

The Applicant respectfully submits that this is precisely the nature of the present accounting challenge.

Authorities

- *Grant*

- *Chetty*
- *Colyn*

Submission

The Applicant is not required, at the rescission stage, to prove that the defence will ultimately succeed.

The affidavits disclose facts which, if established at trial, would constitute a valid defence to the Respondent's claim and therefore satisfy the rescission threshold.

Principle 4

The Court considers the application upon all the evidence placed before it.

Authorities

- Grant
- Chetty
- Colyn

Governing Rule

In determining whether sufficient cause has been shown, the Court considers the evidence as a whole. The explanation, the bona fides of the application and the disclosed defence are not discrete compartments but interrelated considerations which must be evaluated cumulatively.

Application

The Applicant accordingly submits that the Founding Affidavit, the Replying Affidavit, the documentary record and the Advocacy

Evidence Bundles must be read as one integrated evidential presentation.

Submission

The Court is required to consider the Founding Affidavit, the Answering Affidavit, the Replying Affidavit and the documentary record as a whole.

Principle 5

The Court ultimately exercises a judicial discretion in accordance with the interests of justice.

Authorities

- *De Wet*
- *Colyn*
- *Senekal*

Submission

The authorities recognise that rescission ultimately serves the administration of justice by ensuring that disputes supported by a bona fide defence are determined on their merits where fairness requires.

The Applicant respectfully submits that refusing rescission despite the objective documentary disputes identified in these proceedings would be inconsistent with that purpose.

Submission

The Applicant respectfully submits that the governing authorities establish a coherent legal framework requiring the Court to

evaluate the explanation, the bona fides of the application and the disclosed defence cumulatively and in the light of the interests of justice. The succeeding Parts demonstrate that, when those principles are applied to the evidential record before this Court, the recognised requirements for rescission are satisfied.

Bridge to Part D

Having identified the governing legal principles, the next question is:

Does the evidence contained in the record satisfy the recognised legal requirements for rescission?

25. PART D - APPLICATION OF THE LEGAL PRINCIPLES TO THE EVIDENCE

Question for Determination

Does the evidence contained in the affidavits and annexures satisfy the recognised legal requirements for rescission?

Introduction to Part D

The preceding Part identified the legal principles governing applications for rescission of judgment.

The present Part applies those legal principles to the evidential record before this Honourable Court.

The Applicant respectfully submits that the Founding Affidavit ("FA"), the Answering Affidavit ("AA"), the Replying Affidavit ("RA"), together with the annexures and the documentary record,

disclose genuine factual disputes which satisfy the recognised legal requirements for rescission.

The Applicant does not rely upon any single document in isolation.

Rather, the Applicant respectfully submits that the cumulative effect of the evidence demonstrates:

- a reasonable explanation for the circumstances giving rise to the judgment;
- a bona fide application brought in good faith;
- a bona fide defence carrying prima facie prospects of success; and
- that the interests of justice favour the rescission of the judgment granted on 22 October 2019.

The following chapters therefore consider the principal evidential issues relied upon by the Applicant.

Structure of the Evidential Challenge

The factual issues addressed in Part D are supported by the Advocacy Evidence Bundles forming part of the integrated hearing package.

Each bundle addresses a discrete legal proposition arising from the accounting and evidential record and should be read together with the corresponding pleadings, annexures and CaseLines references identified therein.

The bundles are organised as follows:

- Bundle 1 – Statement of Account is Materially Disputed
- Bundle 2 – Unexplained Bank Balance Movement

- Bundle 3 – Principal Amount is Disputed
- Bundle 4 – Interest Calculation is Disputed
- Bundle 5 – Summary Claim is Disputed
- Bundle 6 – Certificate of Balance Depends on Disputed Accounting
- Bundle 7 – Reconstruction Supports Applicant's Accounting Analysis
- Bundle 8 – Payments Affect Indebtedness
- Bundle 9 – Underlying Accounting Records Were Repeatedly Requested
- Bundle 10 – Respondent's Correspondence is Relevant to Record Availability

The Applicant respectfully requests that Part D be read together with these Advocacy Evidence Bundles as an integrated presentation of the accounting and evidential issues raised in this application.

Structure of Part D

Chapter 1 – The Application of the Test for Rescission

Chapter 2 – The Applicant's Explanation

Chapter 3 – The Applicant's Bona Fide Defence

Chapter 4 – The Accounting Foundation of the Judgment

Chapter 5 – The PEG HR Reconstruction

Chapter 6 – The Certificate of Balance

Chapter 7 – The Availability of the Underlying Accounting Records

Chapter 8 – Interests of Justice

CHAPTER 1

THE APPLICATION OF THE TEST FOR RESCISSION

Question for Determination

Has the Applicant, when the governing legal principles are applied to the evidence contained in the record, established sufficient cause for the rescission of the judgment granted on 22 October 2019?

Introduction

The governing legal principles applicable to rescission have been identified in Part C.

The present Chapter applies those principles to the evidential record contained in the Founding Affidavit ("FA"), the Answering Affidavit ("AA"), the Replying Affidavit ("RA"), the annexures thereto and the documents contained in the CaseLines bundle.

The Applicant respectfully submits that the Court is not presently required to determine finally every factual dispute appearing in the papers.

The question before the Court is whether the evidence, viewed as a whole, establishes:

- a reasonable explanation for the circumstances giving rise to the judgment;
- that the application is brought bona fide and in good faith;
- a bona fide defence carrying prima facie prospects of success; and
- that the interests of justice favour the granting of rescission.

Application of the Legal Principles

The Applicant respectfully submits that each of the recognised legal requirements identified in Part C is supported by evidence contained in the record.

First, the Applicant has furnished an explanation for the circumstances giving rise to the judgment. That explanation is set out in the Founding Affidavit and is amplified in the Replying Affidavit.

Secondly, the Applicant has brought the present application bona fide and in good faith. The application is founded upon documentary material, accounting analyses and correspondence obtained over time and incorporated into the evidential record.

Thirdly, the Applicant has disclosed a bona fide defence carrying prima facie prospects of success. That defence is not founded upon a single disputed document. It is founded upon the cumulative effect of the accounting evidence, the documentary record, the PEG HR reconstruction, the treatment of payments, the challenged Certificate of Balance and the evidence relating to the availability of the underlying accounting records.

The Applicant respectfully submits that these issues raise genuine factual disputes which cannot properly be dismissed without judicial consideration.

The succeeding chapters examine each of these evidential components in detail.

The Court is therefore not called upon to decide whether the Applicant's accounting analysis is ultimately correct. The present enquiry is whether the cumulative evidential record discloses genuine disputes which, if established at trial, would constitute a valid defence to the Respondent's claim. The Applicant respectfully submits that it plainly does.

Submission

The Applicant respectfully submits that, when the governing legal principles are applied to the evidential record as a whole, the recognised requirements for rescission are established.

The remaining chapters demonstrate why the accounting foundation of the judgment, the documentary record and the surrounding evidence collectively disclose a bona fide defence carrying prima facie prospects of success.

Bridge to Chapter 2

The first evidential requirement concerns the explanation furnished by the Applicant for the circumstances giving rise to the judgment.

That issue is considered in Chapter 2.

CHAPTER 2

THE APPLICANT'S EXPLANATION

Question for Determination

Has the Applicant furnished a reasonable and acceptable explanation for the circumstances giving rise to the judgment sought to be rescinded?

Introduction

The Applicant respectfully submits that the explanation required in an application for rescission is not one of perfection. The law requires an explanation that is reasonable, bona fide and sufficient to enable the Court to exercise its discretion judicially.

As set out in Part C, the recognised authorities establish that rescission is concerned with whether sufficient cause has been shown, taking into account both the explanation offered and the existence of a bona fide defence carrying prima facie prospects of success.

The Applicant respectfully submits that the explanation contained in the Founding Affidavit and amplified in the Replying Affidavit satisfies those requirements.

The Applicant's Explanation

The Applicant's explanation is fully set out in the Founding Affidavit (FA paras 4–6, 22–40 and 41–51) and further amplified in the Replying Affidavit (RA paras 1.3–1.4, 4.1–4.6, 5.1–5.10 and 6.1–6.25).

(a) The explanation has been consistently maintained

The Applicant has consistently maintained that the amount claimed by the Respondent, together with the accounting foundation upon which that claim was based, is materially disputed.

That position has remained consistent throughout the litigation and is reflected in the affidavits, the documentary annexures and the correspondence forming part of the record.

(b) Because the explanation is supported by objective documents rather than mere assertion, it bears directly upon both the Applicant's bona fides and the reasonableness of the explanation required for rescission.

The Applicant's explanation is not based upon speculation or mere disagreement.

It is supported by documentary material which includes, inter alia:

- the account statement relied upon by the Respondent;
- the Respondent's summary claim calculation;
- the Certificate of Balance;
- the documented payment history;
- the PEG HR reconstruction;
- the correspondence relating to requests for the underlying accounting records; and

- the further documentary material identified in the annexures to the affidavits.

The Applicant respectfully submits that these documents provide an objective evidential foundation for the explanation advanced.

(c) Continued efforts to obtain the underlying records

The Applicant's explanation further includes repeated attempts over an extended period to obtain the underlying accounting records necessary to understand and verify the Respondent's claim.

Those efforts, together with the responses received, form part of the evidential record before this Court and explain the development of the present rescission application.

(d) The explanation must be considered together with the defence

The Applicant respectfully submits that the explanation cannot properly be considered in isolation.

The authorities make clear that the explanation and the bona fide defence are interrelated considerations in determining whether sufficient cause has been established.

Accordingly, the explanation must be evaluated together with the accounting evidence discussed in the succeeding chapters.

Submission

The Applicant respectfully submits that the explanation contained in the Founding Affidavit and Replying Affidavit is reasonable, bona fide and supported by objective documentary material.

When considered together with the bona fide defence discussed below, the explanation satisfies the recognised legal requirements governing applications for rescission.

Bridge to Chapter 3

The Court must next determine whether the Applicant has disclosed a bona fide defence carrying prima facie prospects of success.

That issue is considered in Chapter 3.

CHAPTER 3

THE APPLICANT'S BONA FIDE DEFENCE

Question for Determination

Has the Applicant disclosed a bona fide defence carrying prima facie prospects of success?

Introduction

The Applicant respectfully submits that this requirement lies at the heart of the present rescission application.

The authorities make clear that an applicant is not required, at the rescission stage, to prove that the defence will ultimately succeed at trial.

The question is whether the affidavits disclose a bona fide defence which, if established at trial, would constitute a proper answer to the Respondent's claim.

The Applicant respectfully submits that the evidential record satisfies that requirement.

Nature of the Defence

The Applicant's defence is neither technical nor speculative.

The defence goes directly to the indebtedness upon which judgment was obtained. If the accounting foundation is shown to be materially unreliable, the defence would constitute a complete or partial answer to the Respondent's claim. That is sufficient at the rescission stage.

It is founded upon documentary evidence, accounting analyses, contemporaneous correspondence and the reconstruction of the financial relationship between the parties.

The defence is directed to the accounting foundation upon which the Respondent's claim, the Certificate of Balance and ultimately the judgment were based.

The Applicant respectfully submits that the defence therefore concerns the factual and accounting basis of the Respondent's claim rather than peripheral or collateral matters.

Principal Components of the Defence

The Applicant's defence includes, inter alia:

- the accounting foundation of the Respondent's claim;
- the statement of account relied upon by the Respondent;
- the calculation of the principal indebtedness;
- the calculation of interest;
- the treatment of payments made during the course of the relationship;
- the PEG HR reconstruction;
- the Certificate of Balance;
- the availability of the underlying accounting records; and
- the documentary correspondence concerning those records.

Each of these matters is addressed in the succeeding chapters.

The Applicant respectfully submits that they are not isolated complaints but interconnected components of a single accounting dispute.

Prima Facie Prospects of Success

The Applicant respectfully submits that the documentary record discloses genuine factual disputes concerning the accounting foundation of the Respondent's claim.

Those disputes are supported by documentary material identified in the Founding Affidavit, amplified in the Replying Affidavit and incorporated into the CaseLines bundle.

Whether those disputes ultimately succeed at trial is not the question presently before this Court.

The present question is whether those disputes disclose a defence deserving judicial determination.

The Applicant respectfully submits that they plainly do.

Submission

The Applicant respectfully submits that the defence advanced is genuine, bona fide and supported by objective documentary material.

When considered together with the Applicant's explanation, that defence satisfies the recognised legal requirements governing applications for rescission.

The succeeding chapters examine the principal components of that defence in detail.

Bridge to Chapter 4

The first component of the Applicant's defence concerns the accounting foundation upon which the Respondent's claim and the judgment were based.

That issue is addressed in Chapter 4.

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CHAPTER 4

THE ACCOUNTING FOUNDATION OF THE RESPONDENT'S CLAIM

Question for Determination

Has the Applicant placed before the Court evidence demonstrating that the accounting foundation of the Respondent's claim is genuinely disputed and therefore discloses a bona fide defence carrying prima facie prospects of success?

Authorities:

- *Paulsen and Another v Slip Knot Investments 777 (Pty) Ltd*
- *Nedbank Ltd v National Credit Regulator*
- Section 103(5) of the National Credit Act 34 of 2005.

Introduction

The Applicant respectfully submits that the present rescission application does not turn upon a single accounting entry or one isolated document.

Rather, it concerns the reliability of the accounting foundation upon which the Respondent calculated its claim, relied upon its Certificate of Balance and ultimately obtained the judgment sought to be rescinded.

The Applicant respectfully submits that the accounting foundation must therefore be evaluated as an integrated whole.

The question is not whether each disputed accounting item should now be finally determined.

The question is whether the cumulative evidential record discloses genuine disputes concerning the accounting foundation of the Respondent's claim which justify the reopening of the matter through rescission.

The Applicant is not required at this stage to prove that the accounting analysis is ultimately correct. The Applicant is required only to disclose a bona fide defence carrying prima facie prospects of success. The cumulative accounting disputes identified in this Chapter satisfy that threshold.

Navigation Note

This Chapter should be read together with the following Advocacy Evidence Bundles, which organise and cross-reference the evidential record already before this Honourable Court:

- **Advocacy Evidence Bundle 1** – Statement of Account is Materially Disputed
- **Advocacy Evidence Bundle 2** – Unexplained Bank Balance Movement
- **Advocacy Evidence Bundle 3** – Principal Amount is Disputed

- **Advocacy Evidence Bundle 4** – Interest Calculation is Disputed
- **Advocacy Evidence Bundle 5** – Summary Claim is Disputed

Each Bundle identifies the relevant portions of the Founding Affidavit ("FA"), Answering Affidavit ("AA"), Replying Affidavit ("RA"), supporting annexures, CaseLines references and judicial authorities applicable to the legal proposition under consideration.

The Accounting Foundation

The Respondent's claim was advanced upon an accounting foundation comprising the following interrelated accounting components, each of which is addressed in a separate Advocacy Evidence Bundle forming part of the integrated hearing package:

- the loan account maintained by the Respondent;
- the account statement relied upon in support of the indebtedness;
- the calculation of the principal indebtedness;
- the calculation of interest;
- the treatment of payments received;
- the summary claim calculation;
- the Certificate of Balance; and

- the underlying accounting records from which those documents were derived.

The Applicant respectfully submits that those components cannot properly be evaluated in isolation because each depends upon the accuracy and completeness of the others.

The Applicant's Challenge

The Statutory In Duplum Rule:

The Applicant further submits that the Respondent's interest calculations must also be evaluated against section 103(5) of the National Credit Act 34 of 2005.

The Constitutional Court in Paulsen and Another v Slip Knot Investments 777 (Pty) Ltd and the Supreme Court of Appeal in Nedbank Ltd v National Credit Regulator confirmed the operation and application of section 103(5) of the National Credit Act, which embodies the statutory in duplum rule limiting the aggregate amount of interest and prescribed credit charges that may accrue while a consumer is in default.

Accordingly, if the statutory limitation has been exceeded, the amount claimed and the accounting foundation upon which it is based are necessarily open to challenge.
Advocacy Evidence Bundle 4 (Interest Calculation), read together with Advocacy Evidence Bundle 5 (Summary Claim), identifies the

Applicant's contention that interest and related charges exceeded the statutory limitation. Those allegations are supported by the Founding Affidavit, the Replying Affidavit and the accompanying accounting analyses.

Whether the Applicant's analysis ultimately prevails is not the present enquiry. The present question is whether the evidence discloses a bona fide, objectively supported challenge to the Respondent's calculation of the indebtedness. The Applicant respectfully submits that the statutory in duplum issue constitutes an additional and independent component of the bona fide defence supporting rescission.

The Applicant does not merely dispute the amount claimed.

The Applicant challenges the accounting foundation from which that amount was derived.

The challenge is founded upon objective documentary material contained in the record, including:

- the account statement relied upon by the Respondent;
- the Respondent's own summary calculation of the claim;
- the documented payment history;
- the PEG HR reconstruction;
- correspondence relating to requests for the underlying accounting records;
- the affidavits exchanged in these proceedings; and

- the remaining documentary annexures forming part of the CaseLines record.

The Applicant respectfully submits that these documents disclose material questions concerning the accounting methodology and factual assumptions underlying the Respondent's claim.

These disputes do not require final determination in these proceedings. Their significance lies in demonstrating that the indebtedness upon which judgment was granted is reasonably open to challenge. That is sufficient to disclose a bona fide defence for purposes of rescission.

For ease of judicial navigation, the Applicant's challenge has been organised into discrete Advocacy Evidence Bundles. Each Bundle addresses one accounting proposition while cross-referencing the corresponding pleadings, annexures, CaseLines references and judicial authorities.

Interrelationship of the Accounting Evidence

The Applicant respectfully submits that the accounting evidence should not be considered document by document.

Instead, the evidence should be evaluated as a connected evidential chain.

The account statement informs the calculation of the indebtedness.

The calculation of the indebtedness informs the summary claim.

The summary claim informs the Certificate of Balance.

The Certificate of Balance forms part of the evidential foundation upon which judgment was obtained.

The reliability of each component therefore depends upon the reliability of the accounting foundation as a whole.

Accordingly, if the accounting foundation is reasonably open to challenge, each subsequent accounting product derived from it, including the Summary Claim and Certificate of Balance, necessarily becomes open to challenge.

The succeeding chapters examine each component separately in order to assist the Court.

The Court is respectfully invited to consider those chapters together with the corresponding Advocacy Evidence Bundles, which provide a structured evidential roadmap without introducing any evidence beyond the existing Court record.

Relevance to the Rescission Test

The Applicant respectfully submits that the present chapter is not directed at proving the final correctness of the accounting analysis.

Its purpose is to demonstrate that the evidential record discloses genuine disputes concerning the accounting foundation relied upon by the Respondent.

Those disputes are directly relevant to the requirement that the Applicant disclose a bona fide defence carrying prima facie prospects of success.

The Applicant respectfully submits that they plainly satisfy that requirement.

Submission

The Applicant respectfully submits that the accounting foundation upon which the Respondent's claim was advanced is materially disputed on the papers.

Those disputes are supported by documentary evidence and accounting analyses contained in the record.

Accordingly, the Applicant respectfully submits that the accounting foundation of the Respondent's claim is reasonably open to challenge on the evidential record presently before the Court. That is sufficient to disclose a bona fide defence carrying prima facie prospects of success. The Court is not presently required to determine the correctness of the competing accounting analyses.

Navigation Forward

The accounting propositions introduced in this Chapter are developed in detail in:

- Advocacy Evidence Bundle 1 – Statement of Account

- Advocacy Evidence Bundle 2 – Unexplained Bank Balance Movement
- Advocacy Evidence Bundle 3 – Principal Amount
- Advocacy Evidence Bundle 4 – Interest Calculation
- Advocacy Evidence Bundle 5 – Summary Claim

These Bundles should be read together with the affidavits, annexures and CaseLines references identified therein.

Bridge to Chapter 5

Having identified the accounting foundation upon which the Respondent's claim depends, the next question is:

Does the PEG HR reconstruction support or undermine that accounting foundation?

CHAPTER 5

THE PEG HR RECONSTRUCTION

Question for Determination

Does the PEG HR reconstruction disclose objective evidence capable of supporting the Applicant's challenge to the accounting foundation of the Respondent's claim?

Introduction

The Applicant respectfully submits that the PEG HR reconstruction is one of the principal evidential tools upon which the present rescission application is founded.

The reconstruction was not prepared to replace the Respondent's accounting records.

Rather, it was prepared to analyse, reconcile and evaluate the financial transactions reflected in the documentary record available to the Applicant.

The Applicant respectfully submits that the reconstruction therefore serves as an analytical aid which enables the Court to understand the Applicant's challenge to the Respondent's accounting methodology.

Navigation Note

This Chapter should be read together with:

- **Advocacy Evidence Bundle 7** – Reconstruction Supports Applicant's Accounting Analysis;
- **Advocacy Evidence Bundle 8** – Payments Affect Indebtedness;
- **Advocacy Evidence Bundle 6** – Certificate of Balance Depends on Disputed Accounting.

These Bundles organise and cross-reference the relevant portions of the Founding Affidavit ("FA"), the Answering Affidavit ("AA"), the Replying Affidavit ("RA"), the supporting annexures, the CaseLines record and the judicial authorities relied upon by the Applicant.

Purpose of the Reconstruction

The reconstruction seeks to identify and reconcile the principal financial transactions affecting the PEG HR loan account over the relevant period.

The reconstruction should not be viewed as a substitute for the Respondent's accounting records. Rather, it is a structured analytical tool that organises the documentary evidence already before the Court and enables the accounting propositions to be evaluated in their proper context.

In particular, it considers:

- the advances made by the Respondent;
- the payments made to the Respondent;

- amounts funded through associated transactions;
- the treatment of payments reflected in the available documentation;
- the evolution of the outstanding indebtedness; and
- the relationship between those transactions and the Respondent's calculation of the amount claimed.

The Applicant respectfully submits that the reconstruction is founded upon documentary material already forming part of the evidential record.

Evidential Significance

The Applicant does not rely upon the reconstruction as an independent source of evidence.

The reconstruction derives its significance from the underlying documentary material upon which it is based.

Its purpose is to present that documentary material in a coherent and intelligible form.

Advocacy Evidence Bundle 7 demonstrates how each stage of the reconstruction is supported by contemporaneous documentary evidence, affidavit references and the existing CaseLines record.

The Applicant respectfully submits that, when read together with the available account statements, payment records,

correspondence and affidavits, the reconstruction assists the Court in evaluating whether the Respondent's accounting foundation is capable of being accepted without further judicial enquiry.

Because the reconstruction is derived from contemporaneous documentary material already before the Court, it provides an objective framework against which the Respondent's accounting methodology may be tested. Whether the reconstruction ultimately prevails is a matter for trial. At the present stage, its significance lies in demonstrating that the accounting foundation is reasonably open to challenge.

Relationship to the Respondent's Accounting

The Applicant respectfully submits that the reconstruction identifies material differences between:

- the Applicant's reconstruction of the financial relationship;
- the Respondent's accounting methodology;
- the summary claim calculation; and
- the Certificate of Balance.

These differences are developed in detail in:

- Advocacy Evidence Bundle 7 (PEG HR Reconstruction);
- Advocacy Evidence Bundle 8 (Payments Affect Indebtedness);

- Advocacy Evidence Bundle 6 (Certificate of Balance).

Those Bundles illustrate how the reconstruction, payment history and Certificate of Balance should be read together as interconnected components of a single accounting analysis.

The existence of those differences does not require this Court, at the rescission stage, to determine which accounting methodology is ultimately correct.

The present question is whether those differences disclose genuine factual disputes deserving judicial determination.

The Applicant respectfully submits that they do.

Relationship to the Remaining Evidence

The reconstruction should not be considered in isolation.

It forms part of a broader evidential framework which includes:

- the account statement relied upon by the Respondent;
- the documented payment history;
- the summary claim calculation;
- the Certificate of Balance;
- the correspondence relating to the underlying accounting records; and
- the affidavits exchanged between the parties.

The succeeding chapters examine those documents individually.

The Court is respectfully invited to consider those chapters together with the corresponding Advocacy Evidence Bundles, which provide an integrated evidential roadmap while introducing no evidence beyond that already contained in the affidavits, annexures and CaseLines record.

Submission

The Applicant respectfully submits that the PEG HR reconstruction provides an objective and structured analysis of the documentary record.

When considered together with the underlying documents upon which it is based, the reconstruction demonstrates that the accounting foundation of the Respondent's claim is genuinely disputed.

Accordingly, the reconstruction forms an important component of the Applicant's bona fide defence. It is not tendered as proof of the ultimate merits, but as objective evidence disclosing a defence deserving judicial determination.

Navigation Forward

The reconstruction discussed in this Chapter forms the evidential bridge between:

- the accounting foundation considered in Chapter 4;
- the Certificate of Balance considered in Chapter 6;

- the documented payments analysed in Advocacy Evidence Bundle 8; and
- the underlying accounting records considered in Chapter 7.

The Applicant respectfully submits that these components should be read together as one integrated evidential chain.

Bridge to Chapter 6

The PEG HR reconstruction must next be considered alongside the Certificate of Balance upon which the Respondent relied.

The next question is therefore:

Can the Certificate of Balance, when considered in the light of the reconstruction and the documentary record, safely be accepted as establishing the indebtedness relied upon by the Respondent?

CHAPTER 6

THE CERTIFICATE OF BALANCE

Question for Determination

Can the Certificate of Balance, when considered together with the documentary record and the Applicant's evidential challenge, safely be accepted as conclusively establishing the indebtedness relied upon by the Respondent?

Introduction

The Applicant respectfully submits that the Certificate of Balance occupies a central position in the Respondent's case.

The Respondent relied upon the Certificate of Balance as evidence of the indebtedness allegedly due by the Applicant.

The Applicant does not contend that a Certificate of Balance is incapable of constituting evidence.

Rather, the Applicant respectfully submits that a Certificate of Balance remains evidential in nature and is capable of challenge where the underlying accounting foundation is genuinely disputed.

Accordingly, the significance of the Certificate of Balance in the present application depends upon the reliability of the accounting records and calculations from which it was derived.

Navigation Note

This Chapter should be read together with:

- **Advocacy Evidence Bundle 6** – Certificate of Balance Depends on Disputed Accounting;
- **Advocacy Evidence Bundle 1** – Statement of Account is Materially Disputed;
- **Advocacy Evidence Bundle 5** – Summary Claim is Disputed;
- **Advocacy Evidence Bundle 7** – Reconstruction Supports Applicant's Accounting Analysis.

These Bundles identify the evidential chain leading to the Certificate of Balance and cross-reference the relevant affidavits, annexures, CaseLines record and judicial authorities.

The Evidential Nature of the Certificate of Balance

The Applicant respectfully submits that a Certificate of Balance is not self-proving.

Its evidential weight depends upon the accuracy and reliability of the underlying accounting records upon which it is based.

Where those underlying records are materially disputed, the evidential value of the Certificate must necessarily be considered in that context.

The Applicant does not contend that a Certificate of Balance has no evidential value. The Applicant's case is that its evidential value depends upon the reliability of the underlying accounting process from which it emerged. Where that process is itself the subject of objectively supported factual disputes, the Certificate cannot be treated as conclusive merely because it has been issued.

The Applicant respectfully submits that this is precisely the position in the present matter.

Accordingly, if the accounting process from which the Certificate of Balance emerged is itself reasonably disputed, the Certificate cannot, by itself, eliminate the Applicant's prima facie defence. Its evidential value rises or falls with the reliability of the underlying accounting foundation.

The Applicant's Challenge

The Applicant's challenge is not directed to the Certificate of Balance in isolation.

It is directed to the accounting process from which the Certificate emerged.

The Applicant relies, inter alia, upon:

- the account statement relied upon by the Respondent;
- the Respondent's summary claim calculation;
- the reconstruction of the PEG HR account;

- the documented payment history;
- the treatment of amounts said to have affected the outstanding indebtedness;
- the correspondence concerning the underlying accounting records; and
- the affidavits exchanged in these proceedings.

The Applicant respectfully submits that these documents collectively disclose genuine questions concerning the accounting foundation of the Certificate of Balance.

Those questions are organised and analysed in Advocacy Evidence Bundle 6, which demonstrates how the Certificate is linked to the Statement of Account, the Summary Claim, the PEG HR Reconstruction and the underlying accounting records.

Relationship to the Accounting Foundation

As demonstrated in Chapters 4 and 5, the Certificate of Balance forms part of a broader accounting framework.

The Applicant respectfully submits that the Court should therefore consider the Certificate together with:

- the accounting foundation of the Respondent's claim;
- the PEG HR reconstruction;
- the available documentary record; and
- the underlying accounting records.

The reliability of the Certificate cannot properly be divorced from the reliability of those underlying documents.

The Applicant respectfully submits that the evidential chain may be summarised as follows:

Underlying Accounting Records

↓

Statement of Account

↓

Summary Claim

↓

Certificate of Balance

↓

Judgment

The Applicant's challenge is directed to this evidential chain as a whole rather than to the Certificate viewed in isolation.

Relevance to the Rescission Application

The Applicant does not ask this Court, at the rescission stage, to make a final finding regarding the correctness of the Certificate of Balance.

The issue before the Court is narrower.

The question is whether the evidential record discloses genuine disputes concerning the accounting foundation of the Certificate which are sufficient to constitute a bona fide defence carrying prima facie prospects of success.

The Applicant respectfully submits that the record demonstrates such disputes.

The Court is therefore not required, at this stage, to determine whether the Applicant's accounting analysis is ultimately correct. It is required only to determine whether the evidential record discloses a bona fide defence carrying prima facie prospects of success. The Applicant respectfully submits that Advocacy Evidence Bundle 6 demonstrates that this threshold has been met.

Submission

The Applicant respectfully submits that the Certificate of Balance cannot be evaluated independently of the accounting foundation from which it was derived.

When considered together with the documentary record, the PEG HR reconstruction and the evidence contained in the affidavits, the Applicant respectfully submits that the Certificate of Balance is the subject of genuine factual dispute.

Accordingly, the Applicant submits that the Certificate of Balance does not defeat the present application for rescission

but instead forms part of the evidential chain which itself is reasonably open to challenge and therefore supports, rather than defeats, the Applicant's disclosed bona fide defence.

Navigation Forward

The Certificate of Balance cannot properly be evaluated without reference to:

- Advocacy Evidence Bundle 6 – Certificate of Balance;
- Advocacy Evidence Bundle 7 – PEG HR Reconstruction;
- Advocacy Evidence Bundle 9 – Underlying Accounting Records;
- Advocacy Evidence Bundle 10 – Respondent's Correspondence.

These Bundles collectively explain why the Applicant contends that the evidential value of the Certificate depends upon the integrity of the underlying accounting records.

Bridge to Chapter 7

The evidential value of the Certificate of Balance ultimately depends upon the underlying accounting records from which it was derived.

The next question is therefore:

What is the significance of the availability, or non-availability, of the underlying accounting records requested by the Applicant?

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CHAPTER 7

THE AVAILABILITY OF THE UNDERLYING ACCOUNTING RECORDS

Question for Determination

What is the significance of the availability, or non-availability, of the underlying accounting records to the Applicant's challenge to the Respondent's accounting foundation and the Certificate of Balance?

Introduction

The Applicant respectfully submits that the present rescission application is not founded merely upon disagreement with the Respondent's accounting.

It is founded upon a documented effort over an extended period to understand, verify and reconcile the accounting records upon which the Respondent's claim and the Certificate of Balance were based.

The Applicant respectfully submits that the availability, completeness and reliability of those underlying records are directly relevant to the evidential weight that can properly be attached to the Respondent's accounting foundation.

The Applicant's challenge is not founded upon an absence of enquiry. On the contrary, the documentary record demonstrates repeated efforts over an extended period to obtain, verify and

reconcile the underlying accounting records from which the Respondent's claim, Statement of Account and Certificate of Balance were derived.

Navigation Note

This Chapter should be read together with:

- Advocacy Evidence Bundle 9 – Underlying Accounting Records Were Repeatedly Requested;
- Advocacy Evidence Bundle 10 – Respondent's Correspondence;
- the Founding Affidavit ("FA");
- the Replying Affidavit ("RA");
- the supporting annexures;
- the relevant CaseLines references; and
- the Judicial Authorities Bundle.

These materials collectively organise and cross-reference the documentary history relating to the Applicant's repeated requests for the underlying accounting records, the Respondent's responses, and the evidential significance of those records to the accounting foundation underlying the Statement of Account, Summary Claim and Certificate of Balance.

The Applicant's Requests for Records

The Applicant has consistently sought access to the underlying accounting records necessary to verify:

- the loan account maintained by the Respondent;
- the calculation of the principal indebtedness;
- the calculation of interest;
- the allocation and treatment of payments;
- the accounting entries reflected in the statement of account;
- the calculation underlying the Certificate of Balance; and
- the supporting records from which those documents were derived.

Those requests are documented in the correspondence forming part of the evidential record and are referred to in the Founding Affidavit and Replying Affidavit.

The requests were directed not merely at obtaining documents, but at enabling proper verification of the accounting methodology, the treatment of payments, the calculation of interest, the derivation of the Statement of Account and the preparation of the Certificate of Balance.

The Applicant respectfully submits that these requests demonstrate a consistent attempt to verify the Respondent's accounting rather than merely to dispute it.

The significance of these requests lies not in the requests themselves, but in their relationship to the reliability and verifiability of the accounting foundation relied upon by the Respondent.

The Applicant respectfully submits that these documented requests are consistent with the conduct of a litigant attempting to understand and reconcile the Respondent's accounting, rather than a litigant advancing speculative or unsupported allegations.

Evidential Significance of the Documentary Record

The Applicant relies upon the documentary correspondence exchanged between the parties, including the correspondence from the Respondent's representatives concerning the availability of accounting records.

The Applicant respectfully submits that this correspondence forms part of the evidential context within which the Court must evaluate the accounting foundation of the Respondent's claim.

The significance of that correspondence lies not merely in what was requested, but also in what was available for verification and reconciliation.

It also lies in the extent to which the available documentation enabled, or failed to enable, independent verification of the accounting foundation relied upon by the Respondent.

The Applicant submits that this documentary history is relevant to the Court's assessment of whether the accounting foundation relied upon by the Respondent is capable of being accepted without further judicial enquiry.

Accordingly, the documentary history is relevant because it bears directly upon whether the Applicant has disclosed a bona fide defence carrying prima facie prospects of success.

Relationship to the Accounting Evidence

The Applicant respectfully submits that the availability of the underlying records cannot be separated from:

- the account statement;
- the summary claim calculation;
- the PEG HR reconstruction;
- the Certificate of Balance; and
- the documented payment history.

Each of those documents derives its evidential weight from the accounting records upon which it is founded.

The evidential relationship may be summarised as follows:

Underlying Accounting Records

↓

Statement of Account

↓

Summary Claim

↓

Certificate of Balance

↓

Judgment

The Applicant respectfully submits that the integrity of this evidential chain depends upon the availability and reliability of its foundational records.

The Applicant respectfully submits that the Court should therefore evaluate the accounting evidence as a complete evidential chain rather than as isolated documents.

Relevance to the Rescission Test

The Applicant does not contend that every disputed accounting issue must now be finally resolved.

Rather, the Applicant submits that the documentary record demonstrates genuine and objectively supported disputes concerning the accounting foundation relied upon by the Respondent.

Those disputes are reinforced by the documented history relating to the availability of the underlying accounting records.

Accordingly, the Applicant respectfully submits that the evidential record supports the existence of a bona fide defence carrying prima facie prospects of success.

The Importance of the Respondent's Own Correspondence

The Applicant further relies upon the correspondence originating from the Respondent itself concerning the availability of historical accounting records.

The Applicant respectfully submits that such correspondence is of particular evidential significance because it emanates from the Respondent rather than from the Applicant.

The Applicant respectfully submits that correspondence originating from the Respondent concerning the existence, availability or non-availability of accounting records forms part of the objective evidential context against which the accounting foundation must be evaluated.

The Court is respectfully invited to consider that correspondence together with the remaining documentary record when evaluating the reliability of the accounting foundation relied upon by the Respondent.

Submission

The Applicant respectfully submits that the documentary record concerning the underlying accounting records reinforces, rather

than weakens, the Applicant's challenge to the accounting foundation of the Respondent's claim.

When considered together with the PEG HR reconstruction, the accounting analyses, the Certificate of Balance and the affidavits, that evidence discloses genuine factual disputes which satisfy the recognised requirement of a bona fide defence carrying prima facie prospects of success.

The Applicant respectfully submits that this Chapter is not concerned with assigning blame for the availability of historical records. Its purpose is to demonstrate why the documentary history relating to those records is relevant when assessing whether a bona fide defence carrying prima facie prospects of success has been disclosed.

Accordingly, the Applicant respectfully submits that the evidential record supports the conclusion that the accounting foundation remains reasonably open to challenge and therefore reinforces the Applicant's disclosed bona fide defence.

Navigation Forward

The issues addressed in this Chapter should be read together with:

- Advocacy Evidence Bundle 9 – Underlying Accounting Records;

- Advocacy Evidence Bundle 10 – Respondent's Correspondence;
- Advocacy Evidence Bundle 6 – Certificate of Balance;
- Advocacy Evidence Bundle 7 – PEG HR Reconstruction.

These Bundles collectively explain why the Applicant submits that the reliability of the Respondent's accounting foundation depends upon the availability and integrity of the underlying accounting records.

Bridge to Chapter 8

The Court has now considered:

- the Applicant's explanation;
- the Applicant's bona fide defence;
- the accounting foundation of the Respondent's claim;
- the PEG HR reconstruction;
- the Certificate of Balance; and
- the underlying accounting records.

The remaining question is whether, having regard to all of this evidence, the interests of justice favour the granting of rescission.

CHAPTER 8

THE INTERESTS OF JUSTICE

Question for Determination

Having regard to the applicable legal principles and the cumulative effect of the evidence contained in the record, do the interests of justice favour the rescission of the judgment granted on 22 October 2019?

Introduction

The Applicant respectfully submits that the present application ultimately requires the Court to exercise its discretion judicially, having regard to the interests of justice.

The preceding chapters have demonstrated that the Applicant has:

- furnished a reasonable explanation for the circumstances giving rise to the judgment;
- brought the present application bona fide and in good faith;
- disclosed a bona fide defence carrying prima facie prospects of success; and
- placed before the Court objective documentary material supporting that defence.

The remaining question is whether those factors, considered cumulatively, justify the granting of rescission.

The Interests of Justice Require Consideration of the Entire Record

The Applicant respectfully submits that the interests of justice cannot be determined by reference to a single document or isolated accounting issue.

Rather, the Court is invited to consider:

- the Founding Affidavit;
- the Answering Affidavit;
- the Replying Affidavit;
- the documentary annexures;
- the accounting analyses;
- the PEG HR reconstruction;
- the Certificate of Balance;
- the documentary correspondence; and
- the remaining CaseLines record.

The Applicant respectfully submits that it is the cumulative effect of this evidential record that is material to the Court's discretion.

Genuine Factual Disputes Have Been Disclosed

The Applicant respectfully submits that the papers disclose genuine factual disputes concerning the accounting foundation of the Respondent's claim.

Those disputes are neither hypothetical nor speculative.

They are supported by documentary material already before the Court and concern matters that go directly to:

- the calculation of the indebtedness;
- the accounting methodology employed;
- the treatment of payments;
- the Certificate of Balance; and
- the underlying accounting records.

The Applicant respectfully submits that such disputes warrant proper judicial determination.

The Applicant Seeks an Opportunity for Proper Adjudication

The Applicant does not seek final findings in these proceedings on every disputed accounting issue.

The relief sought is narrower.

The Applicant seeks rescission so that the disputes disclosed in the affidavits and supporting documentation may be determined in proceedings where the merits can be fully ventilated in accordance with the ordinary processes of the Court.

The Applicant respectfully submits that this is consistent with the purpose of rescission proceedings and with the interests of justice.

No Prejudice Arises from the Proper Determination of Genuine Disputes

The Applicant respectfully submits that permitting the accounting issues to be properly adjudicated serves the interests of both parties and the administration of justice.

If the Respondent's accounting foundation is ultimately established, the Respondent will have the benefit of a determination made after full ventilation of the issues.

Conversely, if the Applicant's challenges are well founded, rescission will have prevented the continued operation of a judgment founded upon an accounting foundation that required further judicial scrutiny.

The Applicant respectfully submits that either outcome enhances confidence in the administration of justice.

The Court's Discretion

The authorities recognise that rescission is an equitable remedy in which the Court retains a broad judicial discretion.

The Applicant respectfully submits that the exercise of that discretion should be informed by:

- the reasonable explanation provided;
- the bona fide nature of the application;
- the existence of a bona fide defence carrying prima facie prospects of success;
- the objective documentary record before the Court; and
- the interests of justice.

When these factors are considered together, the Applicant respectfully submits that they favour the granting of rescission.

The cumulative effect of the evidence is greater than the individual disputes considered separately. Taken together, the documentary record, the accounting analyses, the PEG HR reconstruction, the payment history and the correspondence disclose a coherent defence which deserves determination through the ordinary judicial process. That is precisely the circumstance in which this Court's equitable jurisdiction to grant rescission should be exercised.

Submission

The Applicant respectfully submits that the cumulative effect of the evidence establishes sufficient cause for rescission.

The recognised legal requirements have been satisfied.

The objective documentary record discloses genuine factual disputes concerning the accounting foundation of the Respondent's claim.

The interests of justice therefore favour the rescission of the judgment granted on 22 October 2019.

Bridge to Part E

The Court has now considered:

- the applicable legal principles;
- the Applicant's explanation;
- the Applicant's bona fide defence;
- the accounting foundation of the Respondent's claim;
- the PEG HR reconstruction;
- the Certificate of Balance;
- the availability of the underlying accounting records; and
- the interests of justice.

The final issue is the manner in which this Court should exercise its discretion and the relief that should consequently be granted.

That issue is addressed in **Part E – Exercise of the Court's Discretion**.

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26. PART E - EXERCISE OF THE COURT'S DISCRETION

Question for Determination

Having regard to the applicable legal principles and the evidential record, should this Honourable Court exercise its discretion in favour of granting rescission of the judgment dated 22 October 2019?

Introduction

The Applicant respectfully submits that the granting of rescission is ultimately a matter for the Court's judicial discretion.

That discretion must be exercised upon a proper consideration of:

- the governing legal principles;
- the explanation furnished by the Applicant;
- the existence of a bona fide defence carrying prima facie prospects of success;
- the evidential record as a whole; and
- the interests of justice.

The Applicant respectfully submits that each of those considerations favours the granting of rescission in the present matter.

The Discretion Must Be Exercised Judicially

The authorities recognise that rescission is not granted automatically.

Nor should it be refused merely because the Respondent disputes the Applicant's defence.

The Court is required to evaluate the evidence objectively and determine whether sufficient cause has been established for the judgment to be set aside.

The Applicant respectfully submits that the record before the Court satisfies that requirement.

The Court Is Not Required to Determine the Ultimate Merits

The Applicant respectfully submits that this application is not the forum for the final adjudication of every accounting issue between the parties.

The present enquiry is more limited.

The Court is asked to determine whether the Applicant has demonstrated a defence which, if ultimately established in subsequent proceedings, would constitute a proper answer to the Respondent's claim.

The Applicant respectfully submits that the evidence analysed in Part D demonstrates that such a defence has been disclosed.

The Evidential Record Supports the Exercise of the Court's Discretion

The Applicant respectfully submits that the evidential record reveals genuine disputes concerning the accounting foundation of the Respondent's claim.

Those disputes include, among other matters:

- the accounting methodology underlying the claim;
- the account statement relied upon by the Respondent;
- the summary claim calculation;
- the Certificate of Balance;
- the treatment of payments;
- the PEG HR reconstruction; and
- the availability of the underlying accounting records.

The Applicant respectfully submits that these are substantive issues supported by documentary material already before the Court.

The Administration of Justice Is Best Served by Determining Genuine Disputes

The Applicant respectfully submits that the proper administration of justice is advanced when genuine disputes supported by evidence are determined after full judicial ventilation.

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Granting rescission does not determine the ultimate rights of the parties.

It restores the opportunity for those rights to be determined through the ordinary judicial process.

Conversely, refusing rescission where a bona fide defence with prima facie prospects of success has been disclosed would deny the Applicant the opportunity to have those disputed issues determined on their merits.

The Applicant respectfully submits that the interests of justice therefore favour the granting of rescission.

The Balance of Fairness

The Applicant respectfully submits that the relief sought is procedurally fair to both parties.

If the Respondent's claim is ultimately established after proper ventilation of the issues, the Respondent will retain the benefit of a judgment based upon a fully tested evidential record.

If, however, the Applicant's defence succeeds, rescission will have prevented the continued operation of a judgment founded upon matters that required further judicial examination.

The Applicant respectfully submits that this balance accords with the equitable nature of rescission proceedings.

Exercise of the Discretion

When the recognised legal principles are applied to the facts disclosed in the affidavits and annexures, the Applicant respectfully submits that:

- the explanation is reasonable;
- the application is bona fide;
- the defence is genuine;
- the defence carries prima facie prospects of success; and
- the interests of justice favour reopening the matter.

The Applicant accordingly submits that this is an appropriate case for the exercise of the Court's discretion in favour of rescission.

Submission

The Applicant respectfully submits that sufficient cause has been established in accordance with the applicable legal principles.

The Court is therefore respectfully requested to exercise its discretion by granting the rescission application and the consequential relief set out in the Draft Order.

Having regard to the explanation furnished, the bona fide nature of the application, the objective documentary record, the accounting disputes identified throughout these Heads, and the

interests of justice, the Applicant respectfully submits that this Honourable Court should exercise its discretion in favour of rescinding the judgment of 22 October 2019.

Bridge to Part F

Having demonstrated why the Court should exercise its discretion in favour of rescission, the remaining issue concerns the relief that should follow.

That relief is set out in **Part F – Relief Sought**, which aligns with the Notice of Motion and the accompanying Draft Order.

27. PART F - RELIEF SOUGHT

Question for Determination

What order should this Honourable Court grant if it concludes that the Applicant has established sufficient cause for rescission?

Introduction

The Applicant respectfully submits that the preceding Parts of these Heads demonstrate that:

- the recognised legal requirements for rescission have been satisfied;

- the Applicant has furnished a reasonable explanation for the circumstances giving rise to the judgment;
- the Applicant has disclosed a bona fide defence carrying prima facie prospects of success;
- the evidential record reveals genuine factual disputes concerning the accounting foundation of the Respondent's claim; and
- the interests of justice favour the granting of rescission.

The Applicant accordingly seeks the relief set out below.

The Primary Relief

The Applicant respectfully requests an order:

27.1 Rescinding and setting aside the judgment granted by this Honourable Court on **22 October 2019** under Case No. **38401/2018**.

27.2 Granting such consequential and further procedural relief as is consistent with the Notice of Motion and necessary to give effect to the rescission of the judgment, alternatively granting such further or alternative relief as this Honourable Court considers just and equitable.

Consequential Relief

The Applicant further requests such consequential directions as may be necessary to give practical effect to the rescission order, including any procedural directions required for the further conduct of the matter.

The Applicant respectfully submits that such consequential relief is ancillary to, and flows naturally from, the order rescinding the judgment.

Costs

The Applicant respectfully seeks an order for costs in accordance with the relief claimed in the Notice of Motion.

Alternatively, should this Honourable Court consider another order as to costs to be appropriate in the exercise of its discretion, the Applicant abides the decision of the Court.

Alternative Relief

The Applicant respectfully seeks such further and/or alternative relief as this Honourable Court considers just and equitable in the circumstances.

Submission

The Applicant respectfully submits that the relief sought is consistent with:

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- the governing legal principles discussed in Part C;
- the evidential record analysed in Part D;
- the interests of justice addressed in Part D, Chapter 8;
- the exercise of the Court's discretion discussed in Part E; and
- the Notice of Motion and Draft Order filed in these proceedings.

The Applicant accordingly prays for an order in the terms set out above.

Bridge to the Conclusion

The only remaining question is whether the cumulative effect of the law, the evidence and the interests of justice justifies the granting of the relief sought.

That final submission is addressed in the **Conclusion**, which brings together the central themes of these Heads and respectfully explains why the rescission application should succeed.

28. CONCLUSION

The Governing Legal Principles

The Applicant respectfully submits that the applicable principles governing rescission of judgment are well established in South African law.

Those principles require the Court to determine whether the Applicant has established:

- a reasonable explanation for the circumstances giving rise to the judgment;
- that the application has been brought bona fide and in good faith; and
- a bona fide defence carrying prima facie prospects of success.

Where those requirements have been established, the Court retains a judicial discretion to grant rescission where the interests of justice so require.

The Applicant respectfully submits that these Heads have demonstrated that each of those requirements has been satisfied.

The Evidential Record

The Applicant respectfully submits that the present application is not founded upon bare allegations or unsupported disagreement with the Respondent's claim.

Rather, it is founded upon an extensive evidential record comprising:

- the Founding Affidavit;
- the Answering Affidavit;
- the Replying Affidavit;
- the documentary annexures;
- the accounting analyses;
- the PEG HR reconstruction;
- the account statement relied upon by the Respondent;
- the Respondent's summary claim calculation;
- the Certificate of Balance;
- the documented payment history;
- the correspondence concerning the underlying accounting records; and
- the remaining documents contained in the CaseLines record.

The Applicant respectfully submits that these documents must be considered cumulatively rather than in isolation.

When viewed as a whole, they disclose genuine and substantial factual disputes concerning the accounting foundation upon which the Respondent's claim and the judgment of 22 October 2019 were based.

The Applicant's Defence

The Applicant respectfully submits that the defence advanced is genuine, bona fide and supported by objective documentary material.

The defence is directed to the accounting foundation of the Respondent's claim, including the calculation of the principal indebtedness, the calculation of interest, the treatment of payments, the Certificate of Balance, the reconstruction of the PEG HR account and the availability of the underlying accounting records.

The Applicant respectfully submits that these are substantive issues which deserve proper judicial determination and are not peripheral or technical objections.

Accordingly, the Applicant submits that a bona fide defence carrying prima facie prospects of success has been established.

The Interests of Justice

The Applicant respectfully submits that the interests of justice favour the reopening of the matter.

Granting rescission will not determine the ultimate rights of the parties.

It will merely restore the opportunity for those rights to be determined after the disputed accounting issues have been fully ventilated in accordance with the ordinary processes of this Honourable Court.

Conversely, refusing rescission would leave standing a judgment whose accounting foundation is challenged by objective documentary material raising genuine disputes that have not yet been finally adjudicated.

The Applicant respectfully submits that the proper administration of justice is better served by permitting those disputes to be determined on their merits.

Final Submission

For the reasons set out throughout these Heads of Argument, the Applicant respectfully submits that:

- the recognised legal requirements for rescission have been satisfied;
- the Applicant has furnished a reasonable explanation for the circumstances giving rise to the judgment;
- the Applicant has brought this application bona fide and in good faith;

- the Applicant has disclosed a bona fide defence carrying prima facie prospects of success;
- the evidential record reveals genuine factual disputes concerning the accounting foundation of the Respondent's claim;
- the interests of justice favour the reopening of the matter; and
- this Honourable Court should exercise its discretion in favour of granting rescission.

The Applicant accordingly prays for an order in terms of the Notice of Motion and the Draft Order filed of record, together with such further and/or alternative relief as this Honourable Court considers just and equitable.

DATED at **JOHANNESBURG** on this the 28th day of **JUNE 2026**.

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TO:

18-89

The Registrar of above Honourable Court
JOHANNESBURG

AND TO

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AND TO: (By email copy only)
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Trustee of Insolvent Estate
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JOHANNESBURG, 2017.
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AND TO: (By email copy only)
The Master of above Honourable Court
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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/06) Respondent

PRACTICE NOTE
ON BEHALF OF THE APPLICANT
IN SUPPORT OF THE APPLICATION FOR RESCISSION OF JUDGEMENT
HEARING DATE: _____

1. PURPOSE OF THIS PRACTICE NOTE

1.1 This Practice Note is filed to assist the Honourable Court in navigating the Applicant's integrated hearing package.

1.2 It is intended to provide a concise overview of:

- the nature of the proceedings;
- the issues requiring determination;

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- the structure of the hearing documentation;
- the evidential architecture supporting the application; and
- the sequence in which the documents may most conveniently be considered.

1.3 This Practice Note introduces no new evidence and advances no submissions beyond those contained in the affidavits, the Heads of Argument and the documentary record already before the Court.

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2. NATURE OF THE PROCEEDINGS

2.1 This is an opposed application for the rescission of the judgment granted on 22 October 2019.

2.2 The Applicant seeks rescission of the judgment together with the consequential and alternative relief set out in the Notice of Motion and reflected in the Draft Order.

2.3 The Respondent opposes the application.

2.4 The Applicant's case is founded upon the recognised principles governing rescission applications and is supported by affidavit evidence, documentary material and the authorities contained in the Judicial Authorities Bundle.

2.5 The application is not an appeal against the earlier judgments of the appellate courts. It is an application for rescission based upon the requirements recognised in South African law.

3. QUESTIONS FOR DETERMINATION

The Applicant respectfully submits that the principal questions requiring determination are:

3.1 Whether the Applicant has furnished a reasonable explanation for the circumstances giving rise to the judgment.

3.2 Whether the application is brought bona fide.

3.3 Whether the Applicant has disclosed a bona fide defence carrying prima facie prospects of success.

3.4 Whether the documentary record demonstrates genuine disputes concerning the accounting foundation of the Respondent's claim.

3.5 Whether, having regard to all the circumstances, the Court should exercise its discretion in favour of rescission.

---

4. OVERVIEW OF THE APPLICANT'S CASE

4.1 The Applicant does not ask this Court finally to determine every accounting dispute between the parties.

4.2 The Applicant submits that the documentary record demonstrates objectively supported documentary disputes relating to the accounting foundation upon which judgment was obtained.

4.3 Those disputes include issues concerning the Statement of Account, Summary Claim, Certificate of Balance, underlying accounting records, reconstructed accounting analysis and related documentary material.

4.4 The Applicant submits that these matters disclose a bona fide defence carrying prima facie prospects of success and justify the exercise of the Court's discretion in favour of rescission.

---

5. INTEGRATED HEARING PACKAGE

The hearing package has been organised as an integrated navigation system.

Document	Purpose
Practice Note	Executive overview of the hearing
Heads of Argument	Applicant's legal submissions
Litigation and Accounting Chronology	Procedural and factual chronology
Advocacy Evidence Bundles 1–10	Evidential propositions supporting the Applicant's case
List of Authorities	Index of authorities relied upon
Judicial Authorities Bundle	Copies of the authorities

Document	Purpose
Draft Order	Relief sought
Hearing Readiness Package	Procedural compliance and hearing readiness documentation

Each document performs a distinct function while complementing the others.

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6. HEARING ROADMAP

The Applicant respectfully suggests that the hearing documentation be considered in the following sequence:

1. Practice Note;
2. Heads of Argument;
3. Litigation and Accounting Chronology;
4. Advocacy Evidence Bundles 1–10;
5. List of Authorities;
6. Judicial Authorities Bundle;
7. Draft Order; and
8. Hearing Readiness Package.

This sequence enables the Court to move progressively from the procedural context, to the applicable legal principles, to the

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evidential record, the governing authorities, the relief sought and finally the procedural readiness of the matter.

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7. PRINCIPAL EVIDENTIAL PROPOSITIONS

Proposition	Advocacy Evidence Bundle
Statement of Account	AEB 1
Unexplained Bank Balance Movement	AEB 2
Principal Amount	AEB 3
Interest Calculation	AEB 4
Summary Claim	AEB 5
Certificate of Balance	AEB 6
PEG HR Reconstruction	AEB 7
Payments and Indebtedness	AEB 8
Underlying Accounting Records	AEB 9
Correspondence and Related Documents	AEB 10

These bundles correspond directly with the chapters of the Heads of Argument.

8. PRINCIPAL AUTHORITIES

The principal authorities relied upon are contained in the Judicial Authorities Bundle and include:

- Grant v Plumbers (Pty) Ltd
- Chetty v Law Society, Transvaal
- Colyn v Tiger Food Industries Ltd
- De Wet v Western Bank Ltd
- Senekal v Trust Bank of Africa Ltd
- Paulsen and Another v Slip Knot Investments 777 (Pty) Ltd
- Nedbank Ltd v National Credit Regulator
- Silber v Ozen Wholesalers (Pty) Ltd
- Joob Joob Investments (Pty) Ltd v Stocks Mavundla Zek Joint Venture
- National Director of Public Prosecutions v Zuma

The Judicial Authorities Bundle contains the complete authority matrix and cross-references.

9. JUDICIAL NAVIGATION STATEMENT

The Applicant has organised the hearing package to facilitate efficient judicial navigation.

Every substantive proposition contained in the Heads of Argument is cross-referenced, where applicable, to:

- the Founding Affidavit;
- the Answering Affidavit;
- the Replying Affidavit;
- the relevant annexures;
- the Advocacy Evidence Bundles;
- the Judicial Authorities Bundle; and
- the CaseLines record.

The objective is to enable the Court to locate the supporting material quickly and efficiently without introducing any evidence beyond the existing record.

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10. SUGGESTED READING SEQUENCE

The Applicant respectfully suggests the following reading sequence:

Order	Document	Purpose
1	Practice Note	Executive overview
2	Heads of Argument	Legal framework and submissions

Order	Document	Purpose
3	Litigation and Accounting Chronology	Chronology of the dispute
4	Advocacy Evidence Bundles 1–10	Supporting evidence
5	List of Authorities	Index of authorities
6	Judicial Authorities Bundle	Authorities relied upon
7	Draft Order	Relief sought
8	Hearing Readiness Package	Procedural compliance

---

11. ESTIMATED TIME FOR ARGUMENT

Subject to questions from the Court, the Applicant estimates that oral argument will require approximately sixty (60) minutes, allocated broadly as follows:

- Opening and procedural overview – 5 minutes
- Governing legal principles – 15 minutes
- Application of the evidence – 25 minutes
- Exercise of the Court's discretion – 5 minutes
- Reply (if required) – 10 minutes

The Applicant will endeavour to conclude argument in less time should the Court so require.

The Applicant will endeavour to assist the Court by referring directly to the relevant bundles and CaseLines references throughout oral argument.

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12. CONCLUSION

The Applicant respectfully submits that this Practice Note is intended solely to assist the Honourable Court in understanding and navigating the integrated hearing package.

It introduces no new evidence, raises no additional grounds of relief, and advances no submissions beyond those contained in the affidavits, Heads of Argument, Litigation and Accounting Chronology, Advocacy Evidence Bundles, documentary record and Judicial Authorities Bundle already before the Court.

DATED at **JOHANNESBURG** on this the 28th day of **JUNE 2026**.

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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/06) Respondent

LITIGATION AND ACCOUNTING CHRONOLOGY

PURPOSE

This Chronology is prepared to assist the Court by providing a concise chronological overview of the principal factual, procedural and litigation events relevant to the Applicant's application for rescission of the judgment granted on 22 October 2019.

It is intended as a navigation document only and should be read together with the Heads of Argument, Practice Note, Judicial Authorities Bundle and Advocacy Evidence Bundles.

CHRONOLOGY OF MATERIAL EVENTS

Date	Event	Significance
03 April 2017	PEG HR accounting position relied upon by the Applicant following the discharge of the relevant indebtedness.	Forms part of the Applicant's accounting reconstruction and defence.
31 August 2018	Statement of Account and Certificate of Balance relied upon by the Respondent.	Accounting foundation of the Respondent's claim.
2018	Action instituted under Case No. 38401/2018.	Commencement of proceedings.
22 October 2019	Judgment granted against the Applicant.	Judgment sought to be rescinded.
14 October 2020	Notice of Appeal delivered in terms of Rule 49(3).	Commencement of appellate proceedings.

Date	Event	Significance
23 June 2021	Full Court judgment delivered.	Appeal dismissed.
24 June 2022	Supreme Court of Appeal order.	Further appellate proceedings concluded.
20 January 2023	Constitutional Court order.	Litigation history completed.
23 March 2026	Rescission Application issued and served.	Present proceedings commenced.
23 March 2026	Founding Affidavit filed.	Applicant's principal evidence.
23 March 2026	Annexures A–F filed.	Documentary support.
23 March 2026	Proof of service filed.	Procedural compliance.
28 April 2026	Respondent's Answering Affidavit delivered.	Respondent joins issue.
29 April 2026	Respondent's annexures and supporting documents filed.	Respondent's documentary record.
02 May 2026	Applicant's Replying Affidavit delivered.	Pleadings completed.

Date	Event	Significance
02 May 2026	Reconstruction schedules and supporting evidence filed.	Applicant's accounting reconstruction.
12 May 2026	Request submitted to the Registrar for allocation of a hearing date.	Matter prepared for hearing allocation.
18 May 2026	Follow-up request to the Registrar regarding allocation of a hearing date.	Registrar correspondence.
June 2026	Hearing documents finalised, including the Heads of Argument, Practice Note, Judicial Authorities Bundle, Draft Order and Hearing Readiness documentation.	Matter certified ready for hearing date allocation.

CURRENT STATUS

The pleadings have closed.

The documentary evidence has been organised into Advocacy Evidence Bundles.

The Heads of Argument, Practice Note, Litigation and Accounting Chronology, Advocacy Evidence Bundles 1–10, Judicial

Authorities Bundle, List of Authorities, Draft Order and Hearing Readiness Package have been completed.

The Hearing Readiness Package has been prepared in accordance with the applicable provisions of the Consolidated Practice Directive 1 of 2024.

The matter is ready for the allocation of a hearing date.

DATED at **JOHANNESBURG** on this the 28th day of **JUNE 2026**.

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The Registrar of above Honourable Court
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AND TO

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18-107

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Trustee of Insolvent Estate
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JOHANNESBURG, 2017.
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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/06) Respondent

LIST OF AUTHORITIES AND STATUTORY PROVISIONS

PURPOSE

This List of Authorities and Statutory Provisions identifies the judicial authorities and legislative provisions relied upon by the Applicant in support of the application for rescission of judgment.

Copies of the judicial authorities listed below are contained in the accompanying Judicial Authorities Bundle. The authorities are arranged according to the principal legal issues arising in this application.

A. RESCISSION OF JUDGMENT

No.	Authority	Citation	Principal Issue
A1	Grant v Plumbers (Pty) Ltd	1949 (2) SA 470 (O)	Reasonable explanation; bona fide defence; sufficient cause
A2	Silber v Ozen Wholesalers (Pty) Ltd	1954 (2) SA 345 (A)	Meaning of "good cause"
A3	De Wet v Western Bank Ltd	1979 (2) SA 1031 (A)	Court's equitable discretion in rescission
A4	Senekal v Trust Bank of Africa Ltd	1978 (3) SA 375 (A)	Certificate of Balance is evidential and rebuttable
A5	Chetty v Law Society, Transvaal	1985 (2) SA 756 (A)	Explanation and defence considered together
A6	Colyn v Tiger Food Industries Ltd t/a Meadow Feed Mills (Cape)	2003 (6) SA 1 (SCA)	Prima facie defence; judicial discretion

B. ACCOUNTING, EVIDENCE AND FACTUAL DISPUTES

No.	Authority	Citation	Principal Issue
B1	National Director of Public Prosecutions v Zuma	2009 (2) SA 277 (SCA)	Approach to factual disputes on affidavit
B2	Joob Joob Investments (Pty) Ltd v Stocks Mavundla Zek Joint Venture	2009 (5) SA 1 (SCA)	Genuine disputes requiring judicial determination

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C. NATIONAL CREDIT ACT AND STATUTORY *IN DUPLUM* RULE

No.	Authority	Citation	Principal Issue
C1	Paulsen and Another v Slip Knot Investments 777 (Pty) Ltd	[2015] ZACC 5; 2015 (3) SA 479 (CC)	Constitutional Court interpretation of the statutory *in duplum* rule in section 103(5)
C2	Nedbank Ltd v National Credit Regulator	[2011] ZASCA 35; 2011 (3) SA 581 (SCA)	Interpretation and application of section 103(5) of the National Credit Act

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D. JUDICIAL FAIRNESS

No.	Authority	Citation	Principal Issue
D1	Schierhout v Union Government	1927 AD 94	Procedural fairness and interests of justice

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E. LEGISLATION

1. Constitution of the Republic of South Africa, 1996.
2. Superior Courts Act 10 of 2013.
3. National Credit Act 34 of 2005 (particularly sections 101 and 103(5)).
4. Uniform Rules of Court.

F. PRACTICE DIRECTIVES

1. Consolidated Practice Directive 1 of 2024 (Gauteng Local Division).

NOTE

The Applicant relies on these authorities in conjunction with:

- the Heads of Argument;
- the Litigation and Accounting Chronology;
- the Advocacy Evidence Bundles;

- the Judicial Authorities Bundle;
- the Draft Order; and
- the CaseLines record.

This List of Authorities and Statutory Provisions serves as the index to the Judicial Authorities Bundle and should be read together with that Bundle.

DATED at **JOHANNESBURG** on this the 28th day of **JUNE 2026**.

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IN THE HIGH COURT OF SOUTH AFRICA

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Case No: 38401/2018

In the matter between: -

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(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/06) Respondent

JUDICIAL AUTHORITIES BUNDLE

PURPOSE

This Judicial Authorities Bundle accompanies the Applicant's Heads of Argument and List of Authorities and Statutory Provisions.

Its purpose is to provide the Court with a structured collection of the principal judicial authorities relied upon in this rescission application.

The authorities are organised according to the principal legal issues arising in the Heads of Argument and are cross-referenced to the relevant Chapters of the Heads, the Advocacy

Evidence Bundles, and the CaseLines record to facilitate efficient navigation during the hearing.

This Bundle is intended as a judicial navigation tool. It should be read together with the Heads of Argument, the List of Authorities and Statutory Provisions, the Litigation and Accounting Chronology, the Advocacy Evidence Bundles and the CaseLines record.

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- Section A - Master Authorities Index
- Section B - Judicial Navigation Table
- Section C - Authority Summaries
- Section D - Authority Cross-Reference Matrix
- Section E - National Credit Act Authorities
- Section F - Certificate of Balance Authorities
- Section G - Status

SECTION A - MASTER AUTHORITIES INDEX

No.	Authority	Citation	Court	Principal Issue	Heads	AEB / Record
A1	Grant v Plumbers (Pty) Ltd	1949 (2) SA 470 (O)	High Court	Rescission; sufficient cause	Parts C-E	CaseLines Record
A2	Silber v Ozen Wholesalers (Pty) Ltd	1954 (2) SA 345 (A)	AD	Good cause	Part C	CaseLines Record
A3	De Wet v Western Bank Ltd	1979 (2) SA 1031 (A)	AD	Judicial discretion	Part E	CaseLines Record
A4	Senekal v Trust Bank of Africa Ltd	1978 (3) SA 375 (A)	AD	Certificate of Balance	Chapter 6	AEB 6
A5	Chetty v Law Society, Transvaal	1985 (2) SA 756 (A)	AD	Explanation and defence considered together	Parts C-D	CaseLines Record

No.	Authority	Citation	Court	Principal Issue	Heads	AEB / Record
A6	Colyn v Tiger Food Industries Ltd t/a Meadow Feed Mills (Cape)	2003 (6) SA 1 (SCA)	SCA	Prima facie defence; discretion	Parts C and E	CaseLines Record
B1	National Director of Public Prosecutions v Zuma	2009 (2) SA 277 (SCA)	SCA	Affidavit disputes	Chapters 4-8	CaseLines Record
B2	Joob Joob Investments (Pty) Ltd v Stocks Mavundla Zek Joint Venture	2009 (5) SA 1 (SCA)	SCA	Genuine disputes requiring determination	Chapter 4	AEB 5

No.	Authority	Citation	Court	Principal Issue	Heads	AEB / Record
C1	Paulsen and Another v Slip Knot Investments 777 (Pty) Ltd	[2015] ZACC 5; 2015 (3) SA 479 (CC)	CC	Statutory in duplum rule	Chapter 4	AEB 4-5
C2	Nedbank Ltd v National Credit Regulator	[2011] ZASCA 35; 2011 (3) SA 581 (SCA)	SCA	Section 103(5) of the NCA	Chapter 4	AEB 4-5
D1	Schierhout v Union Government	1927 AD 94	AD	Procedural fairness; interests of justice	Part E	CaseLines Record

SECTION B - JUDICIAL NAVIGATION TABLE

Legal Proposition	Authority	Heads	AEB	CaseLines
Reasonable explanation	Grant; Chetty	Part C	-	Founding Affidavit / Replying Affidavit
Good cause	Silber	Part C	-	Founding Affidavit
Bona fide defence	Grant; Colyn	Part D	CaseLines Record	CaseLines Record
Statement of Account disputed	Grant	Chapter 4	AEB 1	Section 17
Unexplained balance movement	Grant	Chapter 4	AEB 2	Section 17
Principal amount disputed	Grant	Chapter 4	AEB 3	Section 17
Interest calculation disputed	Paulsen; Nedbank	Chapter 4	AEB 4	Section 17
Summary Claim disputed	Joob Joob	Chapter 4	AEB 5	Section 17

Legal Proposition	Authority	Heads	AEB	CaseLines
Certificate of Balance challenged	Senekal	Chapter 6	AEB 6	Section 17
PEG HR reconstruction	Grant	Chapter 5	AEB 7	Section 17
Payments affect indebtedness	Paulsen; Nedbank	Chapter 5	AEB 8	Section 17
Underlying accounting records requested	Grant; Zuma	Chapter 7	AEB 9	Section 17
Respondent correspondence relevant to records	Grant; Zuma	Chapter 7	AEB 10	Section 17
Affidavit disputes	NDPP v Zuma	Chapters 4-8	CaseLines Record	CaseLines Record
Judicial discretion	De Wet; Colyn; Schierhout	Part E	CaseLines Record	CaseLines Record
Statutory in duplum rule	Paulsen; Nedbank	Chapter 4	AEB 4-5	Section 17

SECTION C - AUTHORITY SUMMARIES

A1 - Grant v Plumbers (Pty) Ltd

Court

High Court

Principle

Establishes the well-known rescission requirements, including sufficient cause, a reasonable explanation and a bona fide defence with prospects of success.

Why relied upon

Relied upon as the primary rescission authority supporting the Applicant's submission that the cumulative evidential record discloses a bona fide defence.

Relevant Heads

Parts C-E.

Supporting Evidence

Founding Affidavit; Replying Affidavit; Advocacy Evidence Bundles 1-10; CaseLines record.

A2 - Silber v Ozen Wholesalers (Pty) Ltd

Court

Appellate Division

Principle

Explains the meaning of good cause in rescission proceedings and the need for a satisfactory explanation.

Why relied upon

Relied upon to support the Applicant's submission that the explanation and surrounding evidence must be evaluated in context.

Relevant Heads

Part C.

Supporting Evidence

Founding Affidavit; Replying Affidavit.

A3 - De Wet v Western Bank Ltd

Court

Appellate Division

Principle

Confirms the Court's equitable discretion in rescission matters and the role of fairness in the exercise of that discretion.

Why relied upon

Relied upon in support of the Applicant's submission that the Court should exercise its discretion in favour of rescission where genuine disputes require ventilation.

Relevant Heads

Parts C and E.

Supporting Evidence

Entire CaseLines record; Practice Note; Heads of Argument.

A4 - Senekal v Trust Bank of Africa Ltd

Court

Appellate Division

Principle

A Certificate of Balance is evidential rather than necessarily conclusive and may be challenged on proper evidence.

Why relied upon

Relied upon because the Respondent's Certificate of Balance forms part of the accounting foundation challenged by the Applicant.

Relevant Heads

Chapter 6.

Supporting Evidence

Advocacy Evidence Bundle 6; Statement of Account; Summary Claim; PEG HR Reconstruction.

A5 - Chetty v Law Society, Transvaal

Court

Appellate Division

Principle

The explanation and the disclosed defence must be considered together when determining whether sufficient cause exists.

Why relied upon

Relied upon to show that the Applicant's explanation cannot be considered in isolation from the accounting defence and supporting documentary record.

Relevant Heads

Parts C-D.

Supporting Evidence

Founding Affidavit; Replying Affidavit; Advocacy Evidence Bundles.

A6 - Colyn v Tiger Food Industries Ltd t/a Meadow Feed Mills (Cape)

Court

Supreme Court of Appeal

Principle

Confirms that rescission involves a judicial discretion and that a defence need not be finally proved at the rescission stage.

Why relied upon

Relied upon to support the Applicant's submission that he need only demonstrate a bona fide defence carrying prima facie prospects of success.

Relevant Heads

Parts C and E.

Supporting Evidence

Entire CaseLines record.

B1 - National Director of Public Prosecutions v Zuma

Court

Supreme Court of Appeal

Principle

Provides guidance on the treatment of factual disputes and allegations on affidavit.

Why relied upon

Relied upon to support the approach that the factual disputes arising from the accounting record, affidavits and correspondence must be evaluated on the papers without finally trying the merits.

Relevant Heads

Chapters 4-8.

Supporting Evidence

Affidavits; AEB 1-10; CaseLines record.

B2 - Joob Joob Investments (Pty) Ltd v Stocks Mavundla Zek Joint Venture

Court

Supreme Court of Appeal

Principle

Addresses the distinction between disputes that are genuine and those that do not require trial, in the context of summary judgment and triable issues.

Why relied upon

Relied upon to support the Applicant's submission that the accounting disputes are objectively supported and require proper judicial determination.

Relevant Heads

Chapter 4.

Supporting Evidence

Advocacy Evidence Bundle 5; Summary Claim; accounting record.

C1 - Paulsen and Another v Slip Knot Investments 777 (Pty) Ltd

Court

Constitutional Court

Principle

Confirms and explains the statutory in duplum rule under section 103(5) of the National Credit Act.

Why relied upon

Relied upon to support the Applicant's contention that interest and prescribed charges must be assessed against the statutory limitation where the consumer is in default.

Relevant Heads

Chapter 4.

Supporting Evidence

Advocacy Evidence Bundles 4 and 5; Founding Affidavit; Replying Affidavit.

C2 - Nedbank Ltd v National Credit Regulator

Court

Supreme Court of Appeal

Principle

Interprets the operation and application of section 103(5) of the National Credit Act.

Why relied upon

Relied upon to support the Applicant's submission that the Respondent's interest calculations and related charges form part of the accounting dispute requiring ventilation.

Relevant Heads

Chapter 4.

Supporting Evidence

Advocacy Evidence Bundles 4 and 5; National Credit Act sections 101 and 103(5).

D1 - Schierhout v Union Government

Court

Appellate Division

Principle

Recognises the importance of procedural fairness and the Court's power to prevent injustice.

Why relied upon

Relied upon in support of the Applicant's submission that the interests of justice favour proper ventilation of the objectively supported disputes.

Relevant Heads

Part E.

Supporting Evidence

Entire CaseLines record.

SECTION D - AUTHORITY CROSS-REFERENCE MATRIX

Authority	Explanation	Defence	Accounting	Interest	CoB	Records	Judicial Discretion	NCA
Grant	✓	✓	✓	-	-	✓	-	-
Silber	✓	-	-	-	-	-	✓	-
De Wet	-	-	-	-	-	-	✓	-
Senekal	-	✓	✓	-	✓	-	-	-
Chetty	✓	✓	-	-	-	-	-	-
Colyn	-	✓	-	-	-	-	✓	-
NDPP v Zuma	-	✓	✓	-	✓	✓	-	-
Joob Joob	-	✓	✓	-	-	-	-	-
Paulsen	-	✓	✓	✓	-	-	-	✓
Nedbank v NCR	-	✓	✓	✓	-	-	-	✓
Schierhout	-	-	-	-	-	-	✓	-

SECTION E - NATIONAL CREDIT ACT AUTHORITIES

The following statutory provisions and authorities are relied upon in support of the Applicant's contention that the Respondent's accounting, including the calculation of interest and related charges, is materially disputed and must be considered with reference to the National Credit Act 34 of 2005:

- National Credit Act 34 of 2005, particularly sections 101 and 103(5);

- Paulsen and Another v Slip Knot Investments 777 (Pty) Ltd; and
- Nedbank Ltd v National Credit Regulator.

These authorities are relied upon to identify the legal framework governing the Applicant's accounting challenge. They should be read together with Chapter 4 of the Heads of Argument and Advocacy Evidence Bundles 4 and 5.

For purposes of this rescission application, the Applicant does not ask the Court to finally determine whether section 103(5) has been breached. The Applicant relies on these authorities to demonstrate that the interest calculation and related charges form part of the bona fide accounting dispute requiring proper judicial ventilation.

SECTION F - CERTIFICATE OF BALANCE AUTHORITIES

The principal authority relied upon regarding the evidential status of a Certificate of Balance is:

- Senekal v Trust Bank of Africa Ltd 1978 (3) SA 375 (A).

This authority is relied upon in support of the Applicant's submission that a Certificate of Balance remains evidential in nature and may be challenged where the underlying accounting foundation is genuinely disputed. It should be read together with Chapter 6 of the Heads of Argument and Advocacy Evidence Bundle 6.

The Applicant's challenge is not directed at the Certificate of Balance in isolation. It is directed at the accounting process and

documentary foundation from which the Certificate of Balance emerged.

SECTION G - STATUS

This Judicial Authorities Bundle is intended to be read together with:

- the Heads of Argument;
- the List of Authorities and Statutory Provisions;
- the Litigation and Accounting Chronology;
- the Advocacy Evidence Bundles;
- the Practice Note;
- the Draft Order; and
- the CaseLines record.

DATED at **JOHANNESBURG** on this the 28th day of **JUNE 2026**.

EPHRAIM MBUSO DLAMINI
Self-Represented
30 Springhill Road, Riverclub
Sandton, Johannesburg.
Tel: (082) 606 0492
Email:mbuso.dlamini@palacegroup.co.za
Ref: PEG102/25/01/30

TO:

The Registrar of above Honourable Court
JOHANNESBURG

AND TO

EDWARD NATHAN SONNENBERGS INC
RESPONDENT'S ATTORNEYS
Tower 1, The Marc
129 Rivonia Road
Sandton
JOHANNESBURG, 2014
Tel. (011) 269 7600
Email: ckekana@ensafrica.com & goertel@ensafrica.com

AND TO: (By email copy only)
GCW ADMINISTRATORS
Trustee of Insolvent Estate
Private Bag X68
Braamfontein
JOHANNESBURG, 2017.
Email: zeenath.kajee@gcwadmin.co.za; zintle@ngolawjhb.co.za

AND TO: (By email copy only)
The Master of above Honourable Court
JOHANNESBURG
Email: blesese@justice.gov.za

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/06) Respondent

DRAFT ORDER

IT IS ORDERED THAT:

1. RESCISSION OF JUDGMENT

1.1 The judgment granted against the Applicant on **22 October 2019** under Case No. 38401/2018 is hereby rescinded and set aside.

2. CONSEQUENTIAL RELIEF

2.1 The parties shall thereafter proceed in accordance with the applicable Rules of Court and any further directions issued by this Honourable Court.

2.2 Any procedural steps necessary to give effect to the rescission of the judgment shall be taken within the periods prescribed by the Uniform Rules of Court or such periods as this Honourable Court may direct.

3. ALTERNATIVE PROCEDURAL RELIEF

3.1 The consequential and alternative relief sought in the Notice of Motion is granted to the extent necessary to give effect to this Order.

3.2 The parties are directed to comply with such procedural directions as may be necessary to ensure the fair and expeditious determination of the issues remaining in dispute.

4. COSTS

4.1 The Respondent shall pay the costs of this application.

Alternatively

4.2 The costs of this application shall be costs in the cause.

Further alternatively

4.3 Costs shall stand over for determination by the Court hearing the matter after rescission.

5. FURTHER AND/OR ALTERNATIVE RELIEF

5.1 The Applicant is granted such further and/or alternative relief as this Honourable Court considers just and equitable.

BY ORDER OF THE COURT

JUDGE OF THE HIGH COURT

GAUTENG LOCAL DIVISION, JOHANNESBURG

Date: _____

20-3

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/06) Respondent

COMPLIANCE STATEMENT FOR AN OPPOSED MOTION DATE – STATEMENT BY APPLICANT ACTING IN PERSON

I, **Ephraim Mbuso Dlamini**, Applicant acting in person (Self-Represented), hereby confirm that I have personally verified the contents of this statement and certify, to the best of my knowledge, that the applicable requirements of Practice Directive 1 of 2024 relating to this application for an opposed motion hearing date have been complied with. The estimated duration of the hearing is **60 minutes**.

Nr	Narration	Tick
1	No duplicate file for the matter exists.	✓
2	In respect of matters dealt with on CaseLines the matter name has been appropriately prefixed.	✓
3	The case bundle has been created in line with the indexing requirements set out in Practice Directive 1/2024.	✓
4	In respect of matters dealt with on CaseLines, all parties/their representatives have been invited to the matter and their names, telephone numbers and email addresses are listed below.	✓
5	Pleadings have closed.	✓
6	No amendment of the pleadings is outstanding or anticipated.	✓
7	No interlocutory applications are outstanding or anticipated.	✓
8	The following specific requirements for the allocation of an opposed motion date have been met:	

Nr	Narration	Tick
8.1	The party applying for a hearing date has filed Heads of Argument.	✓
8.2	Proof of service of the Heads of Argument has been uploaded to the CaseLines file.	✓
8.3.1	The other party has filed Heads of Argument.	☐
8.3.2	The other party has not filed Heads of Argument. The prescribed period has expired and application is made for a hearing date in the absence of such Heads.	☐
8.4	Ten (10) days have elapsed after service of the Heads of Argument.	☐
8.5	A Chronology has been uploaded.	✓
8.6	A List of Authorities has been uploaded.	✓
8.7	A compliant Practice Note has been uploaded.	✓

The following parties/their representatives have been invited to the CaseLines matter:

- Applicant: Ephraim Mbuso Dlamini (Self-Represented)

- Respondent represented by ENSafrica Attorneys
- Opposed Motion Office CaseLines Profile (to be invited immediately prior to submission)

I understand and will ensure that the Hearing Date Application (Annexure 4) will only be uploaded after this Compliance Statement has been signed and uploaded and, thereafter, the Opposed Motion Office CaseLines profile will be invited to the electronic file, in accordance with Practice Directive 1 of 2024.

DATED at **JOHANNESBURG** on this the 28th day of **JUNE 2026**.

EPHRAIM MBUSO DLAMINI
Self-Represented
30 Springhill Road, Riverclub
Sandton, Johannesburg.
Tel: (082) 606 0492
Email:mbuso.dlamini@palacegroup.co.za
Ref: PEG102/25/01/30

TO:

The Registrar of above Honourable Court
JOHANNESBURG

AND TO

EDWARD NATHAN SONNENBERGS INC
RESPONDENT'S ATTORNEYS
Tower 1, The Marc
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Sandton
JOHANNESBURG, 2014
Tel. (011) 269 7600
Email: ckekana@ensafrica.com & goertel@ensafrica.com

AND TO: (By email copy only)
GCW ADMINISTRATORS
Trustee of Insolvent Estate
Private Bag X68
Braamfontein
JOHANNESBURG, 2017.
Email: zeenath.kajee@gcwadmin.co.za; zintle@ngolawjhb.co.za

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The Master of above Honourable Court
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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/06) Respondent

HEARING READINESS CERTIFICATION – JHCLMS CLAUSE 25 FINAL CERTIFICATION - STATEMENT BY APPLICANT ACTING IN PERSON

Hearing Package Status

Item	Status
Heads of Argument	✓
Practice Note	✓
Draft Order	✓
Judicial Authorities Bundle	✓
Chronology	✓
Hearing Date Application	✓

21-6

Item	Status
Compliance Statement	✓
Clause 25 Certification	✓
Proof of Service	✓
Hearing Date	Pending, Request Submitted
Hearing Date Allocated	Pending, Awaiting Registrar

DATED at **JOHANNESBURG** on this the 28th day of **JUNE 2026**.

EPHRAIM MBUSO DLAMINI
Self-Represented
30 Springhill Road, Riverclub
Sandton, Johannesburg.
Tel: (082) 606 0492
Email:mbuso.dlamini@palacegroup.co.za
Ref: PEG102/25/01/30

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JOHANNESBURG, 2014
Tel. (011) 269 7600
Email: ckekana@ensafrica.com & goertel@ensafrica.com

AND TO: (By email copy only)
GCW ADMINISTRATORS
Trustee of Insolvent Estate
Private Bag X68
Braamfontein
JOHANNESBURG, 2017.
Email: zeenath.kajee@gcwadmin.co.za; zintle@ngolawjhb.co.za

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THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/06) Respondent

HEARING READINESS CERTIFICATION – JHCLMS CLAUSE 25 FINAL CERTIFICATION - STATEMENT BY APPLICANT ACTING IN PERSON

I, **Ephraim Mbuso Dlamini**, Applicant acting in person (Self-Represented), hereby certify that I have personally conducted a comprehensive review of the CaseLines file and the procedural requirements applicable to this opposed motion in accordance with Clause 25 of the Consolidated Practice Directive 1 of 2024.

This certification forms part of the Hearing Readiness Package and is intended to confirm that the matter has undergone a

structured procedural quality assurance review prior to the request for allocation of a hearing date.

1. CaseLines Audit

I certify that:

- the CaseLines file has been reviewed in its entirety;
- the file structure has been standardised;
- section headings have been reviewed and aligned with the progression of the proceedings;
- document naming has been standardised;
- duplicate documents have been identified and removed, or confirmed not to exist.

2. Procedural History

I certify that the procedural history of the matter has been consolidated within the CaseLines file, including the relevant appellate judgments and orders forming part of the litigation history.

3. Hearing Readiness

I certify that:

- pleadings have closed;
- the matter is procedurally ripe for hearing;
- the Hearing Date Application has been completed;
- the Compliance Statement has been completed;
- the CaseLines bundle has been reviewed for completeness.

4. Practice Directive Compliance

I certify that the Hearing Readiness Package has been reviewed against the requirements of Clause 25, Annexure 4, Annexure 5.5 and the applicable procedural provisions of the Consolidated Practice Directive 1 of 2024 governing opposed motions. To the best of my knowledge, the procedural requirements for requesting the allocation of a hearing date have been satisfied.

5. Reservation

This certification relates solely to procedural readiness.

It does not constitute any admission regarding the merits of the dispute, nor does it waive or limit any substantive right,

contention or defence advanced by any party in these proceedings.

DATED at **JOHANNESBURG** on this the 28th day of **JUNE 2026**.

EPHRAIM MBUSO DLAMINI
Self-Represented
30 Springhill Road, Riverclub
Sandton, Johannesburg.
Tel: (082) 606 0492
Email:mbuso.dlamini@palacegroup.co.za
Ref: PEG102/25/01/30

TO:

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AND TO: (By email copy only)
The Master of above Honourable Court
JOHANNESBURG

ANNEXURE 4:
HEARING DATE APPLICATION FORM

ANNEXURE 4: HEARING DATE APPLICATION FORM (USE FOR ALL DATE APPLICATIONS)

GAUTENG DIVISION OF THE HIGH COURT (PRETORIA AND JOHANNESBURG)

Case No:	38401/2018
Date of Hearing:	
Parties: Surname & Initials	
Plaintiff / Applicant:	Defendant / Respondent:
Ephraim Mbuso Dlamini	FirstRand Bank Limited
Estimated duration of hearing:	60 Minutes

Court roll selection: (tick only one)

Opposed Motion		Civil Trials (Including opposed divorces)		Special Motion (Long Duration)	
Unopposed Motion		Settlement Court		Civil Trials (Long Duration)	
Unopposed Divorce Applications		Special Interlocutory Applications		Admissions	
Family court Opposed		RAF Trials		LPC Applications (2 Judges)	
Family court Unopposed		Default Judgment Trials		Bail Appeals	
Family court Urgent		Urgent Applications		Taxation (Opposed / Unopposed)	
		Urgent Applications (After Hours)		Taxation – Settled	

Case Type: Make Selection Below

FAMILY LAW		PAYMENT		FORECLOSURES		SOLVENCY	
E – Divorce		**D** - Default Judgment R31(2)		**AV** – Rule 46		**R** – Rehabilitation	
N – Rule 43		**S** – Summary Judgment		**AD** – Rule 46 (11) – Cancellation of Sale		**B** – Surrender	
C – Custody		**P** – Provisional Judgment		**AM** – Rule 46A(9)(d) – Reserve Price		**PS** – Provisional Sequestration	
F – Interdict		**RM** – Restoration of Municipal Services				**FS** – Final Sequestration	
FO – Other Family Law Application		**FB** – Freezing Bank Account				**PL** – Provisional Liquidation	
		NB – Perfection of Notarial Bonds				**FL** – Final Liquidation	
		CE – Contract Enforcement				**BR** – Business Rescue	
		SE – Stay of Execution					
VARIOUS						**EVICTION**	
T - Interlocutory		**GF** – Curatorship: CURATOR AD LITEM		**SP** - Spoliation		**EV** – Eviction (payment)	
IS – Interdict against Organs of State		**GG** – Curatorship: CURATOR BONIS		**RT** – Restraint of Trade		**EU** – Eviction of Unlawful Occupiers (PIE)	
ID – Interdict against Defamatory Publication		**SF** – *De Suspectus Fuga*		**UC** – Unfair Competition		**ES** – Stay of Eviction Order	
I – Interdict (Unspecified)		**RI** – Refugees / Immigration		**CC** – Contempt of Court Orders		Other – Rescission Application / Hearing	X
GA – Variation of Court order		**CP** – Prison Complaints		**H** – Review			
GB – Application to Compel: Specific Performance		**TD** – Tender Disputes with Organs of State		**V** – Declaratory			
GC – Transfer to another High Court		**AP** – Anton Piller		OTHER: (Provide description below)			
GD – Confirmation of Settlement Agreements							

DATED at **JOHANNESBURG** on this the 28th day of **JUNE 2026**.

_____

EPHRAIM MBUSO DLAMINI
Self-Represented

30 Springhill Road, Riverclub

Sandton, Johannesburg.

Tel: (082) 606 0492

Email:mbuso.dlamini@palacegroup.co.za

Ref: PEG102/25/01/30

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JOHANNESBURG

AND TO

EDWARD NATHAN SONNENBERGS INC

RESPONDENT'S ATTORNEYS

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Email: zeenath.kajee@gcwadmin.co.za; zintle@ngolawjhb.co.za

AND TO: (By email copy only)
The Master of above Honourable Court

JOHANNESBURG

mbuso.dlamini@palacegroup.co.za

From: mbuso.dlamini@palacegroup.co.za
Sent: Sunday, 28 June 2026 20:16
To: 'Calvin Kekana'
Cc: 'Gary Oertel'; 'Phila Ramphomane'; 'blesese@justice.gov.za'; 'Zeenath Kajee'; 'Zintle Ngogodo'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'greg.carlson@epalvend.com'; 'mbuso.dlamini@palacegroup.co.za'
Subject: RE: Service: Rescission Proceedings – Dlamini v FirstRand Bank Limited
Attachments: F-heads-of-argument-rescission-application1.pdf; F-litigation-and-accounting-chronology1.pdf; F-practice-note1.pdf; F-judicial-authorities-bundle1.pdf; F-list-of-authorities-and-statutory-provisions1.pdf; F-draft-order1.pdf; F-1-annexure-55-compliance-statement1.pdf; F-2-hearing-readiness-certification1.pdf; F-3-clause-25-final-certification1.pdf; F-hearing-date-application-form1.pdf

EMAIL 6

6. Section 18 – Heads of Argument, Practice Note and Litigation and Accounting Chronology; (Email 6 – Section 18, 19, 20, 21 and 22)
7. Section 19 – List of Authorities and Judicial Authorities Bundle; (Email 6 – Section 18, 19, 20, 21 and 22)
8. Section 20 – Draft Order; (Email 6 – Section 18, 19, 20, 21 and 22)
9. Section 21 – Hearing Readiness documentation (including the Compliance Statement, Hearing Readiness Certification and Clause 25 Final Certification); (Email 6 – Section 18, 19, 20, 21 and 22); and
10. Section 22 – Hearing Date Application Form. (Email 6 – Section 18, 19, 20, 21 and 22)

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 28 June 2026 20:12
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'Phila Ramphomane' <pramphomane@ensafrica.com>; 'blesese@justice.gov.za' <blesese@justice.gov.za>; 'Zeenath Kajee' <zeenath.kajee@gcwadmin.co.za>; 'Zintle Ngogodo' <zintle@ngolawjhb.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'greg.carlson@epalvend.com' <greg.carlson@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Service: Rescission Proceedings – Dlamini v FirstRand Bank Limited

EMAIL 5

5. Section 17 - Advocacy Evidence Bundles 1–10; (Email 5 - Section 17, three files, i.e. Bundle 8 (F-8), 9 (F-9) and 10 (F-10))

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 28 June 2026 20:10
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'Phila Ramphomane' <pramphomane@ensafrica.com>; 'blesese@justice.gov.za' <blesese@justice.gov.za>; 'Zeenath Kajee' <zeenath.kajee@gcwadmin.co.za>; 'Zintle Ngogodo' <zintle@ngolawjhb.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'greg.carlson@epalvend.com' <greg.carlson@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Service: Rescission Proceedings – Dlamini v FirstRand Bank Limited

EMAIL 4

4. Section 17 - Advocacy Evidence Bundles 1–10; (Email 4 - Section 17, one file, i.e. Bundle 7 (F-7))

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 28 June 2026 20:07
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'Phila Ramphomane' <pramphomane@ensafrica.com>; 'blesese@justice.gov.za' <blesese@justice.gov.za>; 'Zeenath Kajee' <zeenath.kajee@gcwadmin.co.za>; 'Zintle Ngogodo' <zintle@ngolawjhb.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'greg.carlson@epalvend.com' <greg.carlson@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Service: Rescission Proceedings – Dlamini v FirstRand Bank Limited

EMAIL 3

3. Section 17 - Advocacy Evidence Bundles 1–10; (Email 3 - Section 17, three bundles, i.e. Bundles 4(F-4), 5 (F-5) and 6 (F-6))

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 28 June 2026 20:04
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'Phila Ramphomane' <pramphomane@ensafrica.com>; 'blesese@justice.gov.za' <blesese@justice.gov.za>; 'Zeenath Kajee' <zeenath.kajee@gcwadmin.co.za>; 'Zintle Ngogodo' <zintle@ngolawjhb.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'greg.carlson@epalvend.com' <greg.carlson@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: RE: Service: Rescission Proceedings – Dlamini v FirstRand Bank Limited

EMAIL 2

2. Section 17 – Advocacy Evidence Bundle 1–10; (Email 2 - Section 17, one bundle, i.e. Bundle 3 (F-3))

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Sunday, 28 June 2026 19:48
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'Phila Ramphomane' <pramphomane@ensafrica.com>; 'blesese@justice.gov.za' <blesese@justice.gov.za>; 'Zeenath Kajee' <zeenath.kajee@gcwadmin.co.za>; 'Zintle Ngogodo' <zintle@ngolawjhb.co.za>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'greg.carlson@epalvend.com' <greg.carlson@epalvend.com>; 'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: Service: Rescission Proceedings – Dlamini v FirstRand Bank Limited

EMAIL 1

Dear Mr Kekana,

Please find attached (or accessible via the accompanying download link) the Applicant's completed hearing package in respect of the above matter.

The hearing package comprises the following sections as uploaded to CaseLines:

1. Section 16 – Appellate Judgments, Orders and Correspondence plus Part of Section 17; **(Email 1 – Section 16, seven files; Section 17, two bundles, i.e. Bundles 1 (F-1) and 2 (F-2))**
2. Section 17 – Advocacy Evidence Bundle 1–10; (Email 2 - Section 17, one bundle, i.e. Bundle 3 (F-3))
3. Section 17 - Advocacy Evidence Bundles 1–10; (Email 3 - Section 17, three bundles, i.e. Bundles 4(F-4), 5 (F-5) and 6 (F-6))
4. Section 17 - Advocacy Evidence Bundles 1–10; (Email 4 - Section 17, one file, i.e. Bundle 7 (F-7))
5. Section 17 - Advocacy Evidence Bundles 1–10; (Email 5 - Section 17, three files, i.e. Bundle 8 (F-8), 9 (F-9) and 10 (F-10))
6. Section 18 – Heads of Argument, Practice Note and Litigation and Accounting Chronology; (Email 6 – Section 18, 19, 20, 21 and 22)
7. Section 19 – List of Authorities and Judicial Authorities Bundle; (Email 6 – Section 18, 19, 20, 21 and 22)
8. Section 20 – Draft Order; (Email 6 – Section 18, 19, 20, 21 and 22)
9. Section 21 – Hearing Readiness documentation (including the Compliance Statement, Hearing Readiness Certification and Clause 25 Final Certification); (Email 6 – Section 18, 19, 20, 21 and 22); and
10. Section 22 – Hearing Date Application Form. (Email 6 – Section 18, 19, 20, 21 and 22)

These documents are served in preparation for the allocation of a hearing date in the Applicant's rescission application.

The matter has been prepared for hearing and the hearing package has been uploaded to CaseLines.

A copy of this email is provided to the Joint Trustees and the Master for their records.

Kindly acknowledge receipt.
Yours faithfully,
Ephraim Mbuso Dlamini
Applicant in Person

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/07) Respondent

FORMAL DEMAND IN TERMS OF PARAGRAPH 25.1.7.1 OF THE GAUTENG DIVISION PRACTICE DIRECTIVE

Kindly take notice that:

1. On 28 June 2026 I filed and served my complete hearing package, including:
    - Heads of Argument;
    - Practice Note;
    - Chronology;
    - List of Authorities;
    - Draft Order;
    - Hearing Date Application; and

- all accompanying documents required for enrolment.

2. To date, the Respondent has not filed and/or served the **outstanding documents required** by paragraph 25.1 of the Gauteng Division Practice Directive (as amended on 14 April 2025), including its Heads of Argument and the other documents necessary to complete the opposed-motion enrolment process, including, but not limited to:
    - Heads of Argument;
    - Practice Note;
    - Chronology;
    - List of Authorities;
    - any other documents required by paragraph 25 for the allocation of an opposed motion hearing date.

3. The Respondent's non-compliance presently prevents completion of the enrolment procedure contemplated by paragraph 25 of the Gauteng Division Practice Directive.
4. Paragraph 25.1.7.1 of the Gauteng Division Practice Directive provides that where one party has complied with the prescripts and the opposing party has failed to comply, the compliant party shall make formal demand requiring compliance within three court days. Should service of this

notice take place on 18 July 2026, the period for compliance expires at 16h00 on Wednesday, 22 July 2026.

5. I accordingly hereby demand that the Respondent comply with its outstanding obligations within three court days after service of this notice.
6. Failing such compliance, I shall, without further notice, proceed in accordance with paragraph 25.1.7 of the Gauteng Division Practice Directive, including an application to the Special Interlocutory Court for an order compelling compliance together with such further or alternative relief as that Court may deem appropriate.
7. This notice is delivered strictly in compliance with paragraph 25.1.7.1 of the Gauteng Division Practice Directive and without prejudice to any rights arising in the rescission proceedings or in any other pending proceedings between the parties.

DATED at **JOHANNESBURG** on this the 18th day of **JULY 2026**.

_____

EPHRAIM MBUSO DLAMINI
Self-Represented
30 Springhill Road, Riverclub
Sandton, Johannesburg.
Tel: (082) 606 0492
Email:mbuso.dlamini@palacegroup.co.za
Ref: PEG102/25/01/30

AND TO

EDWARD NATHAN SONNENBERGS INC
RESPONDENT'S ATTORNEYS
Tower 1, The Marc
129 Rivonia Road
Sandton
JOHANNESBURG, 2014
Tel. (011) 269 7600
Email: ckekana@ensafrica.com & goertel@ensafrica.com

mbuso.dlamini@palacegroup.co.za

From:	mbuso.dlamini@palacegroup.co.za
Sent:	Saturday, 18 July 2026 15:32
To:	'Calvin Kekana'
Cc:	'Gary Oertel'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'greg.carlson@epalvend.com'; 'mbuso.dlamini@palacegroup.co.za'
Subject:	Case No. 38401/2018 – Service of Formal Demand in terms of Paragraph 25.1.7.1 of the Gauteng Division Practice Directive
Attachments:	F-case-no-384012018-formal-demand-in-terms-of-paragr.pdf

Dear Sirs,

RE: EPHRAIM MBUSO DLAMINI v FIRST RAND BANK LIMITED
Case No.: 38401/2018

Please find attached the **Formal Demand in terms of Paragraph 25.1.7.1 of the Gauteng Division Practice Directive**, dated **18 July 2026**, which has today been uploaded to the CaseLines file in the above matter. The notice records that I have completed the procedural steps required on my part and formally calls upon your client to comply with its outstanding obligations under paragraph 25.1 of the Gauteng Division Practice Directive within the prescribed period.

This email serves as formal service of the attached notice.

Kindly acknowledge receipt of this email and its attachment by return email.

Yours faithfully,

Ephraim Mbuso Dlamini
Applicant in Person
30 Springhill Road
Riverclub, Sandton
Johannesburg
Tel: 082 606 0492
Email: mbuso.dlamini@palacegroup.co.za

Attachment:

- Formal Demand in terms of Paragraph 25.1.7.1 of the Gauteng Division Practice Directive (18 July 2026).

26-5

mbuso.dlamini@palacegroup.co.za

From: mbuso.dlamini@palacegroup.co.za
Sent: Saturday, 18 July 2026 15:44
To: 'Calvin Kekana'
Cc: 'Gary Oertel'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'greg.carlson@epalvend.com'; 'mbuso.dlamini@palacegroup.co.za'
Subject: RE: Case No. 38401/2018 – Service of Formal Demand in terms of Paragraph 25.1.7.1 of the Gauteng Division Practice Directive
Attachments: F-proof-of-service-case-no-384012018-formal-demand-i.pdf

Dear Sirs,

RE: EPHRAIM MBUSO DLAMINI v FIRST RAND BANK LIMITED
Case No.: 38401/2018

Find attached the Proof of Service of the **Formal Demand in terms of Paragraph 25.1.7.1 of the Gauteng Division Practice Directive**, dated **18 July 2026**, which has today been uploaded to the CaseLines file in the above matter.

Kindly acknowledge receipt of this email and its attachment by return email.

Yours faithfully,

Ephraim Mbuso Dlamini
Applicant in Person
30 Springhill Road
Riverclub, Sandton
Johannesburg
Tel: 082 606 0492
Email: mbuso.dlamini@palacegroup.co.za

Attachment:

- Proof of Service of Formal Demand in terms of Paragraph 25.1.7.1 of the Gauteng Division Practice Directive (18 July 2026).

From: mbuso.dlamini@palacegroup.co.za <mbuso.dlamini@palacegroup.co.za>
Sent: Saturday, 18 July 2026 15:32
To: 'Calvin Kekana' <ckekana@ensafrica.com>
Cc: 'Gary Oertel' <goertel@ensafrica.com>; 'admin@palacegroup.co.za' <admin@palacegroup.co.za>; 'simon.mabuza@epalvend.com' <simon.mabuza@epalvend.com>; 'jill.smith@epalvend.com' <jill.smith@epalvend.com>; 'greg.carlson@epalvend.com' <greg.carlson@epalvend.com>;

'mbuso.dlamini@palacegroup.co.za' <mbuso.dlamini@palacegroup.co.za>
Subject: Case No. 38401/2018 – Service of Formal Demand in terms of Paragraph 25.1.7.1 of the Gauteng Division Practice Directive

Dear Sirs,

RE: EPHRAIM MBUSO DLAMINI v FIRST RAND BANK LIMITED
Case No.: 38401/2018

Please find attached the **Formal Demand in terms of Paragraph 25.1.7.1 of the Gauteng Division Practice Directive**, dated **18 July 2026**, which has today been uploaded to the CaseLines file in the above matter. The notice records that I have completed the procedural steps required on my part and formally calls upon your client to comply with its outstanding obligations under paragraph 25.1 of the Gauteng Division Practice Directive within the prescribed period.

This email serves as formal service of the attached notice.

Kindly acknowledge receipt of this email and its attachment by return email.

Yours faithfully,

Ephraim Mbuso Dlamini
Applicant in Person
30 Springhill Road
Riverclub, Sandton
Johannesburg
Tel: 082 606 0492
Email: mbuso.dlamini@palacegroup.co.za

Attachment:

- Formal Demand in terms of Paragraph 25.1.7.1 of the Gauteng Division Practice Directive (18 July 2026).

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Local Division, Johannesburg

CASE NO: **2026-177447**

In the matter between:

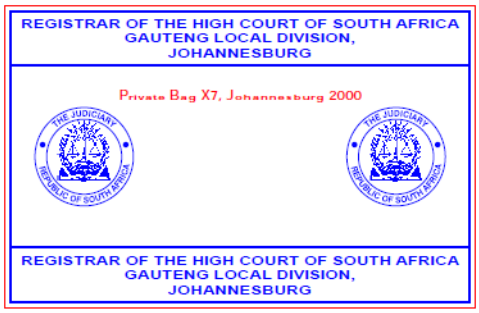
EPHRAIM Mbuso DLAMINI Plaintiff / Applicant / Appellant

and

FirstRand Bank Limited, Defendant / Respondent

Proof of Service

NOTE: **This document was filed electronically by the Registrar on 5/8/2026 at 10:19:35 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of High Court , Gauteng Local Division,Johannesburg

mbuso.dlamini@palacegroup.co.za

From: mbuso.dlamini@palacegroup.co.za
Sent: Wednesday, 05 August 2026 22:17
To: 'Calvin Kekana'
Cc: 'Gary Oertel'; 'admin@palacegroup.co.za'; 'simon.mabuza@epalvend.com'; 'jill.smith@epalvend.com'; 'greg.carlson@epalvend.com'; 'mbuso.dlamini@palacegroup.co.za'
Subject: Case No. 38401/2018 – Notice/Certificate of Removal – Urgent Rescission Application Set Down for 11 August 2026
Attachments: Notice_of_Removal_From_Court_Roll_of_11_Aug_2026_1_202685_20456_2026.08.05.22.05.pdf

Dear Sirs,

Please find attached the Applicant's Notice/Certificate of Removal in respect of the urgent rescission application under Case No. 38401/2018, previously set down for hearing on **11 August 2026 at 10h00**.

Kindly acknowledge receipt.

Yours Faithfully,
Ephraim Mbuso Dlamini
Self-Represented Litigant
Tel: 082 606 0492
Email: mbuso.dlamini@palacegroup.co.za

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Local Division, Johannesburg

CASE NO: **2026-177447**

In the matter between:

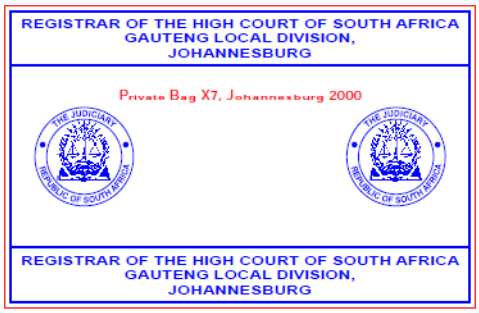
EPHRAIM Mbuso DLAMINI Plaintiff / Applicant / Appellant

and

FirstRand Bank Limited, Defendant / Respondent

Certificate

NOTE: **This document was filed electronically by the Registrar on 5/8/2026 at 10:05:26 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of High Court , Gauteng Local Division,Johannesburg

5/8/2026-10:05:26 PM

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION,

JOHANNESBURG)

Case No: 2026-177447

Case No: 38401/2018

In the matter between: -

EPHRAIM MBUSO DLAMINI Applicant
(Identity Number 5610185771087)

And

FIRST RAND BANK LIMITED
(Registration Number 1929/001225/07) Respondent

CERTIFICATE OF REMOVAL
Urgent Rescission Application

I, the undersigned, **EPHRAIM MBUSO DLAMINI**, the self-represented Applicant, hereby certify that the urgent rescission application which is set down for hearing on the Urgent Court roll of this Honourable Court on **Tuesday, 11 August 2026 at 10h00**, is hereby removed from the roll.

Costs are reserved.

KINDLY REMOVE THE MATTER FROM THE URGENT COURT ROLL ACCORDINGLY.

DATED at **JOHANNESBURG** on this the 05th day of **AUGUST** 5/8/2026-10:05:26 PM

2026.

EPHRAIM MBUSO DLAMINI
Self-Represented
30 Springhill Road, Riverclub
Sandton, Johannesburg.
Tel: (082) 606 0492
Email:mbuso.dlamini@palacegroup.co.za
Ref: PEG102/25/01/30

AND TO

EDWARD NATHAN SONNENBERGS INC
RESPONDENT'S ATTORNEYS
Tower 1, The Marc
129 Rivonia Road
Sandton
JOHANNESBURG, 2014
Tel. (011) 269 7600
Email: ckekana@ensafrica.com & goertel@ensafrica.com