

Marikana Youth Development Organisation  
Right2Know Campaign

Our Reference	F Leppan / B Nhlapho
Account Number	
Your Reference	16/08/2018 Tharisa March
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Date	15 August 2018

**Attention: Mr Bongani Xezwi; Mr Raserole Mashamaite and Mr Murray Hunter**

By Email: bongani.xezwi@gmail.com; bongani@r2k.org.za;  
raserolemashamaite@gmail.com; and murray@r2k.org.za

Dear Mr Xezwi, Mr Mashamaite and Mr Hunter

**URGENT: PLANNED MARCH AGAINST THARISA MINERALS (PTY) LTD ON 16 AUGUST 2018**

- 1 We refer to the above matter and act on behalf of Tharisa Minerals (Pty) Ltd ("**Tharisa**").
- 2 We are instructed as follows:
  - 2.1 You are the leaders of the Marikana Youth Development Organisation ("**the MYDO**") and the Right2Know Campaign ("**the R2K**").
  - 2.2 On Friday, 18 May 2018 at 12h28 you sent an email to Tharisa's CEO, Chairman and CFO and requested to march to Tharisa's premises on 25 May 2018 to hand over a memorandum and for them to avail themselves for this purpose. This march did not take place due to reasons unknown to Tharisa.
  - 2.3 On Wednesday, 15 August 2018 at 10h22 you sent a further email correspondent to Tharisa's management and indicated that the MYDO and the R2K intend to march to Tharisa's mine operation in commemoration of the 2012 Marikana Massacre and to hand over a memorandum.
  - 2.4 In your notice in terms of section 3 of the Regulation of Gatherings Act 205 of 1993 ("**the RGA**") which you did not serve on Tharisa despite having the obligation to do so, you stated that the march to Tharisa's mine operation will commence at 08h00 in the morning for the duration of 6 hours. Tharisa only became aware of this notice on Wednesday, 15 August 2018.

**CHAIRPERSON** TG Fuhrmann **CHIEF EXECUTIVE OFFICER** B Williams **CHIEF FINANCIAL OFFICER** ES Burger

**DIRECTORS: JOHANNESBURG** M Aphiir JA Aukema CD Baird G Barkhuizen-Barbosa R Beerman E Bester P Bhagattjee BSS Boikanyo R Bonnet TE Brincker B Brown K Caddy N Cara HLE Chang CWJ Charter NS Comte CJ Daniel J Darling EF Dempster S Dickson L Erasmus P Erasmus JJ Feris TS Fletcher L Franca TG Fuhrmann F Gattoo MZ Gattoo SB Gore J Govender L Granville AJ Hofmeyr Q Honey WH Jacobs JCA Jones T Jordaan BL King J King Y Kleitman AM le Grange FE Leppan<sup>#</sup> CJ Lewis HJ Louw G Masina NN Mchunu B Meyer WJ Midgley Z Mohamed R Moodley A Moolman MG Mphahudi BP O'Connor A Patel GH Pienaar V Pillay DB Pinnock NA Preston AW Pretorius TZ Rapuleng AG Reid M Serfontein P Singh-Dhulam L Smith FP Swart T Tosen M Treurnicht R Valayathum D Vallabh HR van der Merwe JJ van Dyk WPS van Wyk JG Webber JG Whittle DA Wilken B Williams MP Yeates NI Zwane

**DIRECTORS: CAPE TOWN** TN Baker RD Barendse TJ Brewis MR Collins A de Lange W de Waal LF Egypt S Franks DF Fyfer SAP Gie J Gillmer JW Green AJ Hannie AM Heiberg PB Hesseling RC Horn S Immelman JH Jacobs JAD Jorge A Kariem JA Krige IJ Lessing GC Lumb RE Marcus NS Mbambisa SI Meyer A Mhlongo T Moodley V Munro J Nesor FT Newham G Orrie<sup>§</sup> CH Pienaar<sup>#</sup> AP Pillay L Rhodie MB Rodgers BJ Scriba S Singh GJ Stansfield BPA Strauss DM Thompson CW Williams

**EXECUTIVE CONSULTANTS:** AC Alexander VMM Cadman M Chenia HS Coetzee PJ Conradie WH Janse van Rensburg J Latsky NW Muller JM Witts-Hewinson

**CONSULTANTS:** A Abercrombie JMA Evenhuis<sup>†</sup> Prof A Govindjee EJ Kingdon FF Kolbe

**SENIOR ASSOCIATES:** S Adams RS Alho F Ameer-Mia A Bezuidenhout KA Biddulph R Biermann JJ Brink L Chance T Erasmus Z Hassam GT Howard TC Jegels KJ Keanly SM Kelly N Loopoo MM Mailula B Mangale V Manko NL Meyer N Mia AZ Mkeme V Moodley V Moodaley MB Mpahlwa S Mpfofana W Murray J Naidoo KT Nkaiseng GA Nyanin J Roberts TP Smit M Somrey J Stridom KB Tihabanelo AJ van der Merwe YA van Leeve

**CLIFFE DEKKER HOFMEYR SERVICES PROPRIETARY LIMITED DIRECTORS:** GC Badenhorst ES Burger JA Cassette TR Cohen<sup>\*</sup> AB Hoek MW Linington R Mouton B Williams

<sup>#</sup>British <sup>§</sup>Dutch <sup>†</sup>Cape Town Managing Partner <sup>\*</sup>Business Development Director

- 2.5 As part of your march against Tharisa, the following demands will be made:
- 2.5.1 Tharisa to account for the 3000 jobs it allegedly promised to the MYDO.
  - 2.5.2 Tharisa's Social Labour Plan ("**the SLP**") to be made public and being audited urgently.
  - 2.5.3 Skills Development Programmes, skill development centres and ABET School.
  - 2.5.4 Job creation and transparency in job allocation.
  - 2.5.5 Tharisa to stop employing people outside of Marikana and surrounding areas.
  - 2.5.6 Tharisa employment database from 2016 to 2018 to be made available to the MYDO and the MCC.
  - 2.5.7 Maintenance of roads and erecting speed humps on the Marikana main road.
  - 2.5.8 The removal of Mr William Mpembe ("**Mr Mpembe**") and Mr Thabang Maluke from their positions as Tharisa's employee.
  - 2.5.9 Tharisa to withdraw the interdict Court Order against Mr Mashamaite and other MYDO members. The Court Order allegedly prevents the MYDO members from marching or protesting against Tharisa.
- 2.6 The last two demands are unlawful. In addition, the Mr Mpembe was accused of being a murderer and this is extremely inciting. We wish to record that the Farlam Commissioner exonerated Mr Mpembe and no blameworthiness was attributed to him in any manner whatsoever.
- 2.7 On Wednesday, 15 August 2018 a section 4 meeting in terms of section 4 of the RGA was attempted to convene. However, the meeting could not proceed due to the unavailability of the local SAPS responsible officers. Only the Public Order Policing personnel ("**the POP**") were present during this meeting. It was the responsible officer's decision that the MYDO and the R2K is not granted the permission to proceed with the march due to inter alia the absence of the SAPS authorised members.
- 3 We are instructed that despite the responsible officer's decision, you have taken the position that the MYDO and R2K under your leadership will continue with the march as per the notice.
- 4 Based on the aforementioned, please be advised that the march is not in accordance with the provisions of the RGA; the basis march has not been authorised by the responsible officer and no safety measures have been taken to ensure that the march will be peaceful and without obstructing Tharisa's operations. Further, the demands sought by the MDYO and the R2K including the removal of Mr Mpembe and Mr Maluke as well as the withdrawal of the interdict/Court Order are unlawful.
- 5 We are instructed to demand, as we hereby do, a written undertaking from you, to be emailed to our offices at [bheki.nhlapho@cdhlegal.com](mailto:bheki.nhlapho@cdhlegal.com) and [fiona.leppan@cdhlegal.com](mailto:fiona.leppan@cdhlegal.com) no later than 18h45 on Wednesday, 15 August 2018. The written undertaking must state the following:
- 5.1 The MYDO and the R2K withdraws the notice of its intention to march against Tharisa on Thursday, 16 August 2018;
  - 5.2 The MYDO and the R2K will not proceed with the scheduled march on Thursday, 16 August 2018;
  - 5.3 The MYDO and the R2K shall immediately inform the community and all other role-players of your written undertaking; and
  - 5.4 In the event of breaching the undertaking the MDYO; R2K and yourselves, agree to an interdict being granted against yourselves to protect the rights of Tharisa together with the necessary costs order.
- 6 We are instructed to inform you that should we not receive the above written undertakings by 18h45 on Wednesday, 15 August 2018, then we will, without further notice, launch an urgent application in the Mahikeng

High Court for an order interdicting yourselves, the MYDO and the R2K from continuing with the march. This interdict will be argued at 20:00 today, 15 August 2018.

7 We have also been instructed to seek a punitive costs order against yourselves, the MDYO and the R2K for your failure to comply with the above reasonable written undertakings. For such purpose, a copy of this letter will be presented to the judge at the hearing of this matter.

8 Our client's rights remain reserved.

Yours faithfully



**BHEKANI HLAPHO // FIONA LEPPAN**  
**CLIFFE DEKKER HOFMEYR INC**