

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

CASE NO: 96625/2015

In the matter between:

EAST METALS AG

First Applicant

MASTERCROFT S.A.R.L

Second Applicant

and

**EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED
(IN BUSINESS RESCUE)**
(Registration Number: 1960/001900/06)

First Respondent

PIERS MARSDEN N.O.

Second Respondent

DANIEL TERBLANCHE N.O.
(in their representative capacities as the joint
business rescue practitioners of Evraz Highveld
Steel and Vanadium Limited in business rescue)

Third Respondent

**MAPOCHS MINE PROPRIETARY LIMITED (IN
BUSINESS RESCUE)**
(Registration Number: 2008/009382/07)

Fourth Respondent

JOHN EVANS N.O.

Fifth Respondent

JOHN LIGHTFOOT N.O.
(in their representative capacities as the joint
business rescue practitioners of Mapochs Mine
Proprietary Limited in business rescue)

Sixth Respondent

REPLYING AFFIDAVIT

I, the undersigned,



TANIA MOSTERT

do hereby make oath and say that:

1. I am the deponent to the founding affidavit and remain authorised to conduct these proceedings on behalf of the applicants.
2. The facts in this affidavit are within my personal knowledge unless the contrary appears from the context, and are to the best of my belief correct.
3. I have read the answering affidavits deposed to by:
 - 3.1 Piers Michael Marsden ("**Marsden**") on behalf of Evraz Highveld and its BRPs (the first to third respondents); and
 - 3.2 John Dymoke Lightfoot ("**Lightfoot**") on behalf of Mapochs and its BRPs (the fourth to sixth respondents).
4. In this affidavit I reply to the averments in Marsden and Lightfoot's answering affidavits, respectively, as set out below. In doing so, I have adopted the naming conventions from my founding affidavit.
5. As will appear below, subsequent to the launch of this urgent application, the respondents effectively capitulated and agreed to effect changes to the Mapoch's offer and the Mapoch's business rescue plan to render unnecessary the relief sought by the applicants.
6. The Evraz Highveld's BRPs could have done this before the launch of the urgent application, having been forewarned already on 24 November 2015



(within a day of the applicants receiving the Mapoch's business rescue plan) but they did not do so. And so the launch of the urgent application was necessitated.

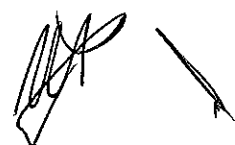
7. As the changes were made to the Mapoch's offer and the Mapoch's business rescue plan, and the Mapoch's business rescue plan has now been adopted, it is no longer necessary to pursue the urgent interim relief, which has become moot.
8. The only issue that remains in this application is one of costs. Whilst the applicants would have wanted to avoid expending legal and court resources on a costs argument, and which the respondents can especially ill-afford as Evraz Highveld and Mapochs both cannot pay their debts, the Evraz Highveld BRPs in particular have insisted that this replying affidavit be filed and that costs be argued. The Evraz Highveld BRPs have no qualms in spending the finances of Evraz Highveld on litigating ancillary issues.
9. As the Evraz Highveld BRPs effectively capitulated, despite their attempts to obfuscate in their answering affidavit, and as they do not seek to address substantively any of the serious allegations made against them or to explain why they conducted themselves in the manner they did in making an offer to Mapochs in substitution of IRPL, the applicants have succeeded and so the Evraz Highveld BRPs should be ordered to pay the costs.
10. As is motivated below, the applicants seek that those costs be paid by the Evraz Highveld BRPS personally on an attorney and client scale as they have




conducted themselves recklessly in disregard of the interests of Evraz Highveld and its affected persons so as to advance the interests of IRPL.

11. I am advised that as the issue is one of costs alone, the court is not to be burdened with lengthy papers and argument. In the circumstances I curtail the applicants' response in this replying affidavit.
12. The applicants remain aggrieved at the manner in which the Evraz Highveld BRPs have conducted themselves and reserve their rights to seek substantive relief directed at the Evraz Highveld BRPs conduct but this can be addressed at length in alternate proceedings.
13. In the notice of motion in this application, the applicants indicated that proceedings would be launched consequent upon the grant of urgent interim relief seeking inter alia the removal of the Evraz Highveld BRPs (indexed page 8). Notwithstanding that the interim relief has become moot for the reasons described above, the applicants reserve their right to seek the removal of the Evraz Highveld BRPs or such other relief as may be appropriate such as declarations of delinquency in terms of section 162 of the Companies Act, declarations of personal liability of the debts of Evraz Highveld for reckless trading or for the recovery of any loss or damages suffered by the applicants for the breach by the Evraz Highveld BRPs of their statutory duties, including their fiduciary duties and duties of care and skill provided for in terms of sections 75 to 77 read with section 140(3) of the Companies Act.

EVENTS PURSUANT TO THE LAUNCHING OF THIS APPLICATION



14. An unissued copy of this application was served via email on the first to sixth respondents, care of their attorneys of record, ENSafrica and Fluxmans, respectively, on Friday, 27 November 2015, at approximately 20h00.
15. Owing to the exigency of the matter and so as to give the respondents as much notice as possible, the copy of the application emailed to the respondents was accompanied by my unsigned and uncommissioned founding affidavit (I had seen and satisfied with the contents of founding affidavit) The covering email to the respective respondents attorneys advised them that a duly commissioned version would be forwarded to them over the weekend of 28 November 2015.
16. On Thursday, 27 November 2015, and anticipating that it may be necessary for the applicants to launch an urgent application to protect their rights, Baker & McKenzie's Berna Malan ("**Malan**") had made various enquiries regarding having such application issued, in the event that it became necessary to do so.
17. In addition, and once it became apparent that the applicants had no choice but to launch this application, Malan made various further attempts to have this application issued prior to it being launched. Baker & McKenzie's various attempts to have the urgent application issued are detailed in a confirmatory affidavit deposed to by Malan, a copy of which is attached hereto, marked "**RA1**".
18. On Saturday, 28 November 2015:

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- 18.1 at approximately 13h00, ENSafrica addressed a letter to Baker & McKenzie, a copy of which is attached hereto, marked "**RA2**", in which ENSafrica advised *inter alia* that their clients intended to oppose this application; and
- 18.2 at approximately 15h30, Fluxmans addressed a letter to Baker & McKenzie, a copy of which is attached hereto, marked "**RA3**". In their letter, Fluxmans advised *inter alia* that their clients intended to oppose this application. In addition, they attached a notice in terms of Rule 47(1) requesting that the applicants provide security for their clients' legal costs.
19. On Sunday, 29 November 2015 at approximately 15h30, Fluxmans served a copy of the answering affidavit deposed to by Lightfoot on behalf of the Mapochs respondents, via email.
20. On Monday, 30 November 2015 at approximately 07h30, ENSafrica served a copy of the answering affidavit deposed to by Marsden on behalf of the Evraz Highveld respondents, via email.
21. This application was issued on Monday, 30 November 2015 and heard in the urgent court before Pretorius J. By agreement between the parties, and for the reasons set out below, Pretorius J made the following order:
- 21.1 the matter was enrolled on, and removed from, the urgent roll;
- 21.2 the applicants were ordered to deliver this replying affidavit in accordance with the Uniform Rules;



21.3 heads of argument would be filed in accordance with the practice manual of the above court; and

21.4 the matter would be set down, enrolled and heard on the ordinary roll in due course.

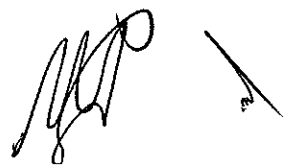
22. As appears above, the only live issue is one of costs.

23. The South African Revenue Services ("**SARS**") was represented in court on Monday, 30 November 2015 by Hogan Lovells. At the hearing, SARS' counsel informed the court that it intended to intervene in these proceedings. To date, SARS has not done so.

URGENCY

24. As set out in paragraphs 39 to 55 of my founding affidavit, I submit that this application was self-evidently urgent and was launched as soon as possible after receipt of the letter from ENSafrica on Friday, 27 November 2015 at approximately 09h30 ("FA7" to the founding affidavit at page 122). In the circumstances, this application was launched approximately eleven hours after the Evraz Highveld BRPs informed the applicants that they intended to waive Evraz Highveld's creditors claim against Mapochs notwithstanding the applicants' complaints that this was prejudicial to Evraz Highveld and its creditors.

25. In any event, the last minute amendments to the Mapochs Plan agreed to by the Mapochs and Evraz Highveld respondents pursuant to the launching of this application only serve to confirm that this application had merit and was



strictly necessary to protect the applicants' rights and those of affected persons in Evraz Highveld.

26. From the date that the Mapochs Plan came to their attention, the applicants' attorneys addressed urgent correspondence to ENSafrica regarding the applicants' grave concerns in respect of the proposals contained in the Mapochs Plan and in an attempt to avoid these proceedings.
27. The effect of such correspondence, as set out in the tardy responses from the Evraz Highveld BRPs, was no less than three different amendments proposed to the Plan, each of which were the cause of continuing prejudice to the applicants. It was only upon receipt of the Mapochs BRPs answering affidavit containing acceptable proposals, and the confirmation of such proposals by the Evraz Highveld BRPs in Marsden's answering affidavit, that it became clear to the applicants that the respondents had finally managed to deal with their concerns.
28. I wish to point out that the final amendments proposed by the Evraz Highveld BRPs to the Mapochs Plan, which were adopted by creditors at the meeting on Monday, 30 November 2015, were completely different to those contained in the original Mapochs Plan that came to the attention of the applicants on Monday, 23 November 2015.
29. There was no realistic prospect that the applicants could have done otherwise than to launch the urgent application on 24 November 2015. On 24 November 2015 ENSafrica persisted that the Evraz Highveld BRPs were persisting with waiving Evraz Highveld's' claims against Mapochs.



30. There was no realistic of persuading them otherwise than by the launch of the this urgent application and only in doing so did the respondents capitulate and agree to seek the necessary amendments to the Mapoch's plan at the creditors meeting on 30 November 2015.
31. To exacerbate the situation, to date the Evraz Highveld BRPs have been anything but co-operative in seeking to avoid unnecessary litigation and to engage substantively and constructively with the merits of the challenges made against the business rescue proceedings and their conduct.
32. Evraz Highveld BRPs have engaged in numerous interlocutory disputes that were entirely unnecessary. By way of example, they instructed both senior and junior counsel to oppose the applicant's interlocutory application for substituted service of the Pending Main Application and the Urgent Application, persisting with that dispute until well into argument and then, again, capitulating, much as they have done in these proceedings. Instead of engaging with the applicants constructively on how to achieve substituted service of the Pending Main Application and the Urgent Application on hundreds, if not thousands, of affected parties, and so advance the litigation, they chose to oppose the application for substituted service and only relented when the court made it clear that it would grant leave to effect substituted service largely in the form proposed by the applicants. I refer to the confirmatory affidavit of Malan, who was present throughout those proceedings.



33. As is also evident in these proceedings, the Evraz Highveld BRPs raise numerous technical objections instead of responding substantively to the serious allegations made against them. They assert I have no personal knowledge, launch applications to strike out, raise issues of non-joinder and the like.
34. The Evraz Highveld BRPs complain that the applicants did not enrol the Urgent Application and delay the proceedings. Regrettably the Practice Manual precluded the Urgent Application from being set down for hearing other than on a date allocated by the DJP as it exceeds 500 pages (through no fault of the applicants). Similarly the applicants cannot be faulted for the papers in the Pending Main Application not yet being ripe for hearing as various affected parties have chosen to intervene, who have not yet delivered answering affidavits.
35. The applicants have no desire to delay the hearing of any of the applications. Rather it is the Evraz Highveld BRPs who seek to avoid that their conduct be subject to judicial scrutiny by raising numerous interlocutory and ancillary issues.
36. In light of this approach by the Evraz Highveld BRPs, there was no realistic prospect of the applicants being able to secure the amendments to the Mapochs offer and plan other than by launching this urgent application.
37. In the circumstances, I deny that any urgency was self-created. In this respect, I submit that the assertions by the Mapochs respondents and the

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Evrax Highveld respondents, respectively, that this application was not urgent are accordingly without merit.

THE MAPOCHS ANSWER

38. In short, the Mapochs Answer addressed the concerns raised by the applicants in my founding affidavit as follows:

38.1 IRPL will buy the creditors of Mapochs, other than Evrax Highveld and subject to what is set out below:

38.1.1 for an aggregate purchase consideration of R53 million; and

38.1.2 advance further sum of between R14 million and R21 million;

38.2 Evrax Highveld would be repaid R5,2 million and its claims would then be made up of:

38.2.1 its shareholder loan of R1,68 billion; and

38.2.2 its creditors claim of R56 million (which, until this application was launched, was inexplicably to be waived by the Evrax Highveld BRPs);

38.3 Evrax Highveld and IRPL would be the only creditors of Mapochs;

38.4 the debt owed to Evrax Highveld and IRPL would be subordinated in favour of third party creditors; and

38.5 Mapochs would be restored to solvency.



39. The subordination of both IRPL and Evraz Highveld's claims was a novel notion first introduced in Lightfoot's answering affidavit. The following appears from paragraph 43 of Lightfoot's answering affidavit (paginated page 137) -

"The subordination was omitted from the first draft of the business rescue plan based on [Evraz Highveld's] offer. This will be remedied in the plan to be presented at the meeting for approval by the creditors."

40. At paragraph 45 of his answering affidavit (paginated page 138), Lightfoot further confirms a new proposal will be put to Mapochs' creditors, in which he confirms that -

"As a result the plan to be proposed at the meeting on Monday, 30 November 2015 is to be modified to make the proposal that of IRPL and not Highveld."

41. Lightfoot states further in paragraph 45.2 (paginated page 138) that -

"Highveld will not sell its claims which will be subordinated in favour of new creditors post Business Rescue..."

42. Finally, and at paragraph 48.3, Lightfoot confirms that (paginated page 140) -

"What is intended to be put at the meeting...does not involve waiving any of Highveld's claims in or against [Mapochs]"

43. Until receipt of Lightfoot's affidavit on Sunday 30 November 2015, the Evraz Highveld BRPs persisted that were waiving Evraz Highveld's claims against Mapochs (and advised the applicants that they intended to do so as late as 24



November 2015 ("FA7" at page 122) - despite protest by the applicants). In the circumstances, this urgent application remained necessary to protect the rights of affected persons in the business rescue of Evraz Highveld.

44. The last minute amendments to the Mapochs Plan, as detailed above, serve to confirm the respondents' acknowledgement of the irreparable harm that would have been suffered by the applicants had the waiver of Evraz Highveld's claims against Mapochs occurred and had it indeed purchased the remaining creditors' claims instead of IRPL.

THE EVRAZ HIGHVELD ANSWER

45. The necessity for the urgent application is clearly demonstrated by the last minute equivocation by the Evraz Highveld BRPs, contained in paragraph 74 of Marsden's answering affidavit (paginated page 163) where he states that *"There is no waiving of claims..."*.
46. But this is in direct contradistinction to ENSafrica's letter of Friday, 27 November 2015 ("FA7" at page 122) where ENSafrica persists that the claims will be waived.
47. Absent in Marsden's affidavit is any attempt by him to deal with the serious allegations levelled against him and Terblanche regarding their intention to waive Evraz Highveld claims, without any apparent authority to do so and to the serious prejudice of Evraz Highveld.
48. Also absent is any explanation as to the change of mind from 24 November 2015 to Monday, 30 November 2015. I submit that this is because the waiver



of the claims is indefensible and was done by the Evraz Highveld BRPs to advance the interests of IRPL. When they were "caught out" by the applicants, they advance no explanation and simply state that there will now be no waiver.

49. Instead, Marsden resorts to legal technical arguments such as my alleged lack of personal knowledge, the applicants' *locus standi* and a lack of proper service on affected persons. I deal with these meritless complaints in turn.

Personal Knowledge

50. I deny that I do not have personal knowledge of the facts contained in my founding affidavit. I was previously employed by Evraz Highveld but fail to understand how my previous employment at Evraz Highveld (and my current employment by EVH) is relevant to Marsden's denial that I have personal knowledge of the facts giving rise to this application (and the Pending Main Application).

51. I reassert that I have personal knowledge of the facts relevant to all of the applicants' applications and say so for the following reasons:

- 51.1 most of the allegations in my affidavits arise from an analysis of the documents, such as the Evraz Highveld and Mapochs Plans, or arise from interactions in which the applicants' attorneys Baker & McKenzie participated. Representatives from Baker & McKenzie have deposed to confirmatory affidavits in instances where I do not have personal knowledge. This is readily apparent from my founding affidavit in the Pending Main Application and appears from the context;



51.2 I have been in constant contact with the applicants' internal legal advisers and other representatives from the applicants and have at all times been kept abreast of developments relevant to the business rescue of Evraz Highveld; and

51.3 I was previously employed by Evraz Highveld, during which employment I became familiar with certain of the issues that it faces and which are discussed in the affidavits relevant to the litigation surrounding Evraz Highveld.

Locus standi

52. The respondents attempt to make out the case that the applicants have no *locus standi* to launch these proceedings.

53. I make out the case in my founding affidavit that the rescue of Evraz Highveld and Mapochs are inextricably interlinked. For that reason alone I submit that the applicants have the *locus standi* necessary to launch these proceedings.

54. In any event, and as set out more fully in the notice of motion, the relief sought is primarily as against the first to third respondents, by virtue of the fact that they were unauthorised to conclude the transaction contemplated in the original Mapochs Plan (which was subsequently reworked to cater for the applicants' concerns and only after this application was launched).

55. I again refer to section 20(4) of the Companies Act, as I did in my founding affidavit.

Service on affected persons

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56. I deny that it was incumbent upon the applicants to service the application on affected persons in the business rescue of Mapochs, as the plan had not been adopted when the urgent application was launched and enrolled. Further legal argument will be addressed to the court at the hearing of this application.
57. Also, it is incumbent on the respondents as business rescue practitioners to give the requisite notice to affected parties in terms of sections 144(3)(a), 145(1)(a) and 146(a) read with Company Regulation 125.

REPLY AD SERIATIM


58. Given that the relief sought by the applicants was rendered moot by the amendments proposed to the Mapochs Plan, as contained in the respondents' answering affidavits (delivered at 15h00 on Sunday, 29 November 2015 and confirmed at 07h30 on Monday, 30 November 2015), I submit that it is accordingly not necessary to deal with each of the respective answering affidavits, *ad seriatim*.
59. Accordingly, and to the extent necessary, I join issue with any allegations in the answering affidavit that conflict with what I have stated in this affidavit and my founding affidavits in the Urgent Application and Pending Main Application.

COSTS

60. The last minute capitulation by the Evraz Highveld BRPs' in revising and amending the Mapochs Plan dictates that the applicants have been successful in this application.

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61. In the circumstances, costs should follow the result.
62. In business rescue, such costs would likely typically be ordered to be costs in the business rescue of Evraz Highveld. I submit that the conduct of the Evraz Highveld BRPs justifies a departure from this norm and that the second and third respondents should be ordered to pay the costs of this application in their personal capacities rather than to burden Evraz Highveld with these costs.
63. I say so for the following reasons:
- 63.1 the applicants' concerns, which were repeatedly addressed to the respondents in correspondence from Baker & McKenzie to ENSafrica during the week of 23 November 2015, were only finally addressed after this application was launched;
- 63.2 the application was accordingly necessitated only as a result of the Evraz Highveld BRPs' intransigent attitude towards the applicants' concerns, which, I submit, were concerns shared by the affected persons in the business rescue of Evraz Highveld;
- 63.3 the initial proposal suggested by the Evraz Highveld BRPs and contained in the Mapochs Plan was a patent attempt to saddle Evraz Highveld with the debts of Mapochs, which conduct was clearly not in the best interests of Evraz Highveld; and
- 63.4 the initial proposal contained in the Mapochs Plan was watered down in a piecemeal fashion during the course of the week of 23 November



2015, ultimately resulting in a proposed (but unauthorised) waiver by the second and third respondents, purportedly in their capacity as Evraz Highveld's BRPs. This, like the initial proposal, was clearly not in the best interests of Evraz Highveld or its creditors;

63.5 it was only as a result of the applicants' persistent objections that the Evraz Highveld BRPs were compelled to relent and act in the best interests of Evraz Highveld and its affected persons rather than to advance the cause of IRPL, also represented by ENSafrica.

64. I accordingly submit that it would not be in the best interests of the affected persons in Evraz Highveld if the costs ordered were to be in the business rescue of Evraz Highveld.

65. I accordingly pray that the second and third respondents be ordered to pay the costs of this application in their personal capacities on the scale of attorney and client.

66. Provided that the fourth, fifth and sixth respondents seek to no longer further pursue these proceedings, in light of the relief sought becoming moot, the applicants are prepared to agree that their costs be costs in the business rescue of Mapochs as the fourth respondent.

WHEREFORE I pray the second and third respondents be ordered to pay the costs of the application personally, and on an attorney and client scale.

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SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICE CENTRE
2015-12-14
CSC
ROSEBANK
SUUD-APRIKAAANSE POLISIEDIENS

COMMISSIONER OF OATHS
Full names: *Mokhele Mphahlele*
Business address: *117 day of November 2015*
Designation and area for which appointment held: *SPS obank*
Office (if appointment held ex officio): *SPS obank*

I hereby certify that the deponent has acknowledged that she knows and understands the content of this affidavit, which was sworn to and signed before me at *SPS obank* on the *17* day of *November* 2015, the regulations contained in Government Notice no. R1258 of 21 July 972, as amended, and Government Notice no. R1648 of 19 August 1977, as amended, having been complied with

TANIA MOSTERT

2015
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Fifth Respondent

JOHN LIGHTFOOT N.O.
(in their representative capacities as the joint
business rescue practitioners of Mapochs Mine
Proprietary Limited in business rescue)



Sixth Respondent

EDWARD NATHAN SONNENBERGS INCORPORATED
(Registration Number: 2006/018200/21)

Seventh Respondent

AFFIDAVIT


I, the undersigned,

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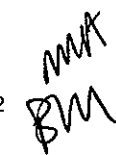
BERNA MALAN,

do hereby make oath and state that:

1. I am an adult female attorney, employed as such by Du Plessis Van Der Merwe Inc. t/a Baker & McKenzie, 1 Commerce Square, 39 Rivonia Road, Sandhurst, Johannesburg ("**Baker & McKenzie**"). Backer & McKenzie act for the applicants in this application, which are a creditor and shareholder in the first respondent, respectively.
2. The facts contained herein are within my personal knowledge and are both true and correct.
3. On Monday 23 November 2015, Baker & McKenzie was provided with a copy of the draft business plan for the fourth respondent ("**the Plan**"). The vote to adopt the Plan is scheduled for 14h00 on Monday, 30 November 2015.
4. As the business rescue plan of the first respondent is itself the subject of litigation under case number 85549/2015 in the above Honourable Court, the applicants had no alternative but to approach the above honourable court on an urgent basis on the morning of 30 November 2015, in order to ensure that their rights in the aforementioned litigation are adequately protected ("**the Urgent Application**"). The applicants' case for the urgency of the Urgent Application is set out in the founding affidavit of Tania Mostert, which I submit justifies that the application stands to be heard as soon as possible and before 14h00 on Monday, 30 November 2015.
5. On Thursday 26 November 2015, Baker & McKenzie's correspondent attorneys, Adams & Adams, informed me that the senior judge allocated to urgent applications for Monday, 30 November 2015, was Judge Pretorius and that we

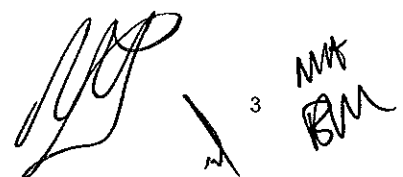


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could contact her clerk, Adele Van Niekerk ("**Adele**") on 012 314 9002 in order to make the necessary arrangements in respect of the Urgent Application.

6. During the course of Thursday, 26 November 2015, I made several telephone calls to the number question, but was unable to get hold of Adele.
7. Eventually, and by mid-afternoon on 26 November 2015, I asked the receptionist at the Palace of Justice in Pretoria, which is where Judge Pretorius' chambers are situated, for Adele's email address, so that I could in the meantime address a letter to Judge Pretorius.
8. I accordingly sent an email to Adele just after 16h00 on 26 November 2015, requesting her to bring the attached letter to the attention of Judge Pretorius as a matter of urgency.
9. The letter to Judge Pretorius briefly sets out the facts and urgency of the above matter, and requests an indication from Judge Pretorius as to whether she would be able to hear the Urgent Application on Monday, 30 November 2015. Further, the letter requests directions from Judge Pretorius as to possible arrangements to ensure that she received a copy of the Urgent Application in the above matter prior to a possible hearing on Monday 30 November 2015.
10. My email and the letter to Judge Pretorius are attached hereto marked, respectively, "**BM1**" and "**BM2**".
11. Immediately after I sent the email, I telephoned Adele again, and this time managed to get hold of her.
12. I explained the facts, including the urgency, of the above matter to her and requested direction as to how we should proceed in order to have the Urgent Application issued on an urgent basis.

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13. I also informed her that I had just sent her an email with a letter for the urgent attention of Judge Pretorius. She confirmed that I had used the correct email address, but stated that she had not read her emails yet, and probably would not get time to do so during the course of the day.
14. Adele then informed that she operated strictly in accordance with the provisions of the North Gauteng High Court Practice Manual, which provides that urgent matters must be filed by 12h00 on a Thursday for hearing on the following Tuesday. She would accordingly not accept any papers that we wished to deliver to her on 26 November 2015, as it was already after 12h00.
15. Adele further advised me that the only option left would be to attend at court on the day on which the matter was set down, and explain the urgency, and failure to comply with the required time periods, to the judge in court.
16. On the morning of Friday 27 November 2015, I addressed a further email to Adele, in which is stated, amongst other things, that:

"I refer to our discussions during the course of yesterday, during which I notified you of our clients' urgent application, in terms of which our clients seek to interdict a meeting of creditors in the business rescue of Mapochs Mining (Pty) Ltd Monday, scheduled for 14h00 on Monday, 30 November 2015.

Given when the said meeting is due to occur, it is fundamentally urgent on any basis. In addition, it may well be necessary to issue this application after hours.

By refusing to accept papers:

- 1. you are making a predetermination on urgency without your judge*



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having heard the matter;

2. your actions are resulting in the judge not being in a position to read the founding papers and whatever papers may be filed by Monday; and

3. is seriously prejudicial to our client.

We accordingly request that you allow for this urgent application to be issued after hours, either this evening or tomorrow morning.

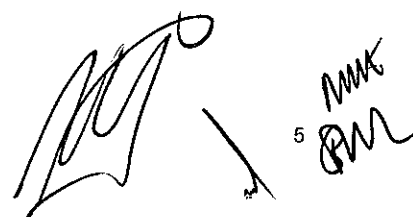
I look forward to hearing from you as a matter of urgency."

17. A copy of this email is attached hereto marked "**BM3**".

18. At approximately 09h30 on Saturday, 28 November 2015, I made a telephone call to the urgent cellular phone number of the above Honourable Court. The call was answered by Zonika, who confirmed that this was the number for urgent applications, and also confirmed that Judge Pretorius was the senior judge allocated for urgent matters on Monday, 30 November 2015.

19. After I explained that we needed to have the Urgent Application issued on an urgent basis and same provided to Judge Pretorius for consideration before Monday morning, she advised that me that it would be better if I spoke to Adele directly. She proceeded to provide me with Adele's private cellular phone number.

20. I accordingly phoned Adele, and explained that we needed to make arrangements to have the Urgent Application issued on an urgent basis. We then needed to arrange for the Urgent Application to be delivered to Judge Pretorius in order for her to consider the matter prior to it being heard on Monday morning.



Handwritten signature and initials, including a large stylized signature and the initials 'MMK' and 'BM'.


21. Adele informed me that she will under no circumstances accept papers that were filed after 12h00 on the preceding Thursday, and that she has in fact been instructed not to do so. She accordingly explicitly refused to accept our urgent papers in the above matter.
22. She also again informed me that the only possible way to proceed to have the matter brought to the attention of Judge Pretorius was to appear in front of the judge either in her chambers or in court, and there to explain the circumstances that made this matter so urgent that the prescribed time periods could not be complied with.
23. The applicants are therefore, to date and despite their best endeavours in this regard having regard to the urgent nature of the matter under consideration, unable to have the Urgent Application issued.

SIGNED AT ROSEBANK ON THIS THE 29th DAY OF NOVEMBER 2015



BERNA MALAN

Thus signed and sworn to before me at Rosebank on this the 29 day of November 2015, the deponent having acknowledged that she knows and understands the contents of this affidavit and having declared that she has no objection to taking the prescribed oath and that she considers the oath to be final and binding on her conscience.



6

COMMISSIONER OF OATHS



Mudau Albert
Sgt
2008085-4
[Signature]

[Signature]
or
Bm

Malan, Berna

From: Malan, Berna
Sent: 26 November 2015 04:06 PM
To: 'aharris@judiciary.org.za'
Cc: Bell, John; O'Connor, Callum; 'renee.nienaber@adamsadams.com'
Subject: East Metals A.G. // Mastercroft S.a.R.L. // Evraz Highveld Steel and Vanadium Limited (In Business Rescue)
Attachments: Letter Judge Pretorius.pdf

Dear Adele,

I attach a letter for the attention of Judge Pretorius. I would appreciate it if you could kindly bring the letter to the Judge's attention as a matter of urgency.

Kind regards,

Berna Malan
Associate
Baker & McKenzie
1 Commerce Square, 39 Rivonia Road, Sandhurst
Johannesburg, 2196, ZA
Tel: +27 (0) 11 911 4382
Switchboard: +27 (0) 11 911 4300
Fax: +27 (0) 11 783 4177
Berna.Malan@bakermckenzie.com




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Handwritten initials: BM

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* Associated Firm
** In cooperation with
Trench, Rossi & Watanabe
Advogados

26 November 2015

The Honourable Madam Justice Pretorius
High Court Building,
Vermeulen Street
Pretoria

Our ref: J Bell/ C O Connor

By email
aharris@judiciary.org.za

Attention: The Honourable Madam Justice Pretorius

Dear Judge

EAST METALS AG & MASTERCROFT S.A.R.L // EVRAZ HIGHVELD STEEL AND VANADIUM (PTY) LTD & OTHERS

We act on behalf of East Metal AG and Mastercrafft S.A.R.L respectively a large creditor and majority shareholder of Evraz Highveld Steel and Vanadium (Pty) Ltd (in business rescue) ("Highveld").

Highveld in turn is the majority shareholder in Mapochs Mining (Pty) Ltd (in business rescue) ("Mapochs"). On Friday, 20 November 2015 the Business Rescue Practitioners of Mapochs published the business rescue plan for Mapochs ("the Plan") and called a creditors meeting to vote on the Plan for 14h00 on Monday, 30 November 2015.

Our clients were provided with a copy of the Plan and notice on Monday, 23 November 2015 and forwarded same to our offices for consideration. Due to the complexity of the matter coupled with the detailed legal and commercial consideration which needed to be taken into account in order to analyse the Plan we were only able to provide our clients (who's representative hold office in Moscow) with comments and advice on Tuesday, 24 November 2015.

We were then instructed during the afternoon of Tuesday 24 November 2015 to launch an urgent application to *inter alia* interdict the convening of the creditors meeting and the vote to adopt the Plan, alternatively interdicting the rescue transaction contemplated therein which envisages a substantial amount of money being paid by Highveld to acquire the creditors claims of Mapochs.

To this end we endeavoured to obtain further information in relation to the Plan from the legal representatives of business rescue practitioners of Highveld to further consider the merits of such an application. In the absence of a response from them during Wednesday 25 November 2015 we urgently met with senior counsel during Wednesday evening in order to commence preparation of the application.

Du Plessis, Van der Merwe Inc. (Registration number 2012/047447/21)

Directors

BELL, John
BERNSTEIN, Dorel
BOTES, Johan
CHETTY, Vanl

DANIELS, Kala
DU PLESSIS, Willem
JANSE VAN RENSBURG, Mike
RUDOLPH, Gerhard

STOLP, Jennifer
VAN DER MERWE, Morné
WHYTE, Kieran

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In the premises, we envisage to have our clients' application finalised during the course of early Friday afternoon (27 November 2015). We will also ensure that service of the application is effected on the respondents via email during Friday afternoon and it is worth mentioning that all the respondents are presently represented by firms of attorneys.

Due to the time constraints above and the impossibility of complying with the time periods in the Practice Directive of the Gauteng Provincial Division for purposes of enrolling urgent applications, we wish to enquire as to whether you will be able to hear the application during the morning of Monday, 30 November 2015, and prior to the time of convening of the creditors meeting, and if so what arrangements we can make to let you have our clients' application prior to the hearing.

For ease of convenience we are copying Adams & Adams, our Pretoria correspondent attorneys, hereon and we look forward to your response by reply.

Yours faithfully



John Bell
Partner

011 911 4366
John.Bell@bakermckenzie.com

cc Renee Nienaber (Adams & Adams)

012 432 6277

renee.nienaber@adamsadams.com



2
Renee Nienaber

Malan, Berna

From: Malan, Berna
Sent: 27 November 2015 11:05 AM
To: 'aharris@judiciary.org.za'
Cc: Bell, John; O'Connor, Callum; 'renee.nienaber@adamsadams.com'
Subject: East Metals A.G. // Mastercrocft S.a.R.L. // Mapochs Mining (Pty) Ltd - Urgent application

Dear Adele,

We act for East Metals AG and Mastercrocft S.a.r.l.

I refer to our discussions during the course of yesterday, during which I notified you of our clients' urgent application, in terms of which our clients seek to interdict a meeting of creditors in the business rescue of Mapochs Mining (Pty) Ltd Monday, scheduled for 14h00 on Monday, 30 November 2015.

Given when the said meeting is due to occur, it is fundamentally urgent on any basis. In addition, it may well be necessary to issue this application after hours.

By refusing to accept papers:

1. you are making a predetermination on urgency without your judge having heard the matter;
2. your actions are resulting in the judge not being in a position to read the founding papers and whatever papers may be filed by Monday; and
3. is seriously prejudicial to our client.

We accordingly request that you allow for this urgent application to be issued after hours, either this evening or tomorrow morning.

I look forward to hearing from you as a matter of urgency.

Regards

Berna Malan
Associate
Baker & McKenzie
1 Commerce Square, 39 Rivonia Road, Sandhurst
Johannesburg, 2196, ZA
Tel: +27 (0) 11 911 4382
Switchboard: +27 (0) 11 911 4300
Fax: +27 (0) 11 783 4177
Berna.Malan@bakermckenzie.com

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Malan, Berna

From: Letitia Field <lfield@ensafrica.com>
Sent: 28 November 2015 01:08 PM
To: O'Connor, Callum; Gary Oertel
Cc: Bell, John; Rudolph, Gerhard; Malan, Berna; Colin Strime
Subject: RE: EMAG & Mastercrocft / Evraz Highveld and Others
Attachments: ScanDoc15112813_02_202650.pdf

Dear Sirs

Please see attached letter for your attention.

Regards

From: O'Connor, Callum [mailto:Callum.OConnor@bakermckenzie.com]
Sent: 27 November 2015 20:00
To: Gary Oertel <goertel@ensafrica.com>
Cc: Letitia Field <lfield@ensafrica.com>; Bell, John <John.Bell@bakermckenzie.com>; Rudolph, Gerhard <Gerhard.Rudolph@bakermckenzie.com>
Subject: FW: EMAG & Mastercrocft / Evraz Highveld and Others
Importance: High

Gary

See the email below, which I sent to Gary Pritchard inadvertently. Apologies.

Regards

Callum O'Connor
 Senior Associate
 Baker & McKenzie
 1 Commerce Square, 39 Rivonia Road, Sandhurst
 Johannesburg, 2196, ZA
 Tel: +27 (0) 11 911 4350
 Switchboard: +27 (0) 11 911 4300
 Fax: +27 (0) 11 783 4177
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 **Letitia Field**
 senior associate
 insolvency, business rescue and debt recovery
 tel: +27 21 410 2500
 cell: +27 82 787 9504
 email: lfield@ENSafrica.com
 offices: [ENSafrica locations](http://ENSafrica.com)

From: O'Connor, Callum
Sent: 27 November 2015 07:59 PM
To: Pritchard, Gary

Cc: Letitia Field; Rudolph, Gerhard; Bell, John; Malan, Berna; Morapi, Lesetja
Subject: EMAG & Mastercraft / Evraz Highveld and Others
Importance: High

Dear Gary

I refer to your conversation with John Bell a short while ago.

As discussed, please see attached our clients' urgent application for service on your clients.

You will see that given the exigency of the matter, our clients' founding affidavit has not yet been deposed to. A commissioned version will be sent to you during the course of the weekend.

Regards

Callum O'Connor
 Senior Associate
 Baker & McKenzie
 1 Commerce Square, 39 Rivonia Road, Sandhurst
 Johannesburg, 2196, ZA
 Tel: +27 (0) 11 911 4350
 Switchboard: +27 (0) 11 911 4300
 Fax: +27 (0) 11 783 4177
Callum.OConnor@bakermckenzie.com

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Edward Nathan Sonnenbergs Incorporated (registration number 2006/018200/21)

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 tel +2711 269 7600 fax +2711 269 7899
 info@ENSAfrica.com ENSAfrica.com

Baker & McKenzie
 Attention: Gerhard Rudolph
 By email: gerhard.rudolph@bakermckenzie.com

G Oertel / L Field our ref

G Rudolph/CO/BM your ref
 28 November 2015 date

Dear Sirs

RE: EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE)

1. We refer to:
 - 1.1. the sms sent by John Bell to our Gary Oertel around 19h15 on Friday, 27 November 2015, informing him that an urgent application would be emailed; and
 - 1.2. your email of 20h00 on Friday, 27 November 2015, enclosing an unissued copy of the urgent application set down for hearing on Monday, 30 November 2015 at 10h00.
2. The urgent application and the requirement that our clients:
 - 2.1. oppose the application by 16h00 today; and
 - 2.2. deliver their answering affidavit by 09h00 on Sunday, 29 November 2015,

is entirely unrealistic and constitutes a gross abuse of process.
3. It is evident that your legal team has been preparing the urgent application during the course of the week. The founding affidavit alone consists of 40 pages and more than 80 pages of annexures. It is not an affidavit which has been prepared at the last minute and "*expeditiously and as soon as possible after*" having received our response before the requested deadline of 10h00 on Friday, 27 November 2015. The correspondence was used to fill the time from 20 November 2015.
4. Despite knowing of the history of the matter and the necessity to consider the application, to take instructions and to prepare an answering affidavit, you waited until after 19h00 on a Friday night to send an sms advising of the urgent application and emailing same at 20h00 on Friday night.



5. We hold instructions to oppose the urgent application. We have not been provided with a commissioned or issued application. We presume that this will not happen before Monday, 30 November 2015, if at all.
6. We object to the manner in which you have attempted to serve the urgent application and to any attempt to provide it to the judge in these circumstances.
7. All of our clients' rights are reserved.

Yours faithfully

EDWARD NATHAN SONNENBERGS INC.

Per:


LETITIA FIELD

Malan, Berna

From: Nicholas Potgieter <npotgieter@Fluxmans.com>
Sent: 28 November 2015 03:17 PM
To: Bell, John; O'Connor, Callum
Cc: Rudolph, Gerhard; Malan, Berna; Morapi, Lesetja; Colin Strime; Peter Kemp; johnevans@rsadvisors.co.za; johnpeter@law.co.za; jlightfoot@matusonassociates.co.za; lfield@ensafrica.com; goertel@ensafrica.com
Subject: URGENT APPLICATION - EMAG & MASTERCROFT / MAPOCHS [FLUXMANS-OPENACTIVE.FID104732]
Attachments: SKMBT_C20315112815100.pdf

Dear Sir/Madam

Kindly see attached.

Yours faithfully

fluxmans

ATTORNEYS

Nicholas Potgieter
Candidate Attorney

Fluxmans Inc.

(Registration Number: 2000/024775/21)

30 Jellicoe Ave, Rosebank,
 Johannesburg, 2196, South Africa.

Docex 54, Johannesburg.

Private Bag X41, Saxonwold, 2132.

Direct line: +27 11 328-9319

Fax: +27 11 880-2261

eMail: npotgieter@fluxmans.com

Website: <http://www.fluxmans.com>

BEE Status: Level 5

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A list of Fluxmans directors can be found in the 'Company Profile' section on our website.

To view our e-mail disclaimer please click on the following link <http://www.fluxmans.com/documents/disclaimer.txt>. Should you not have Internet access please send a blank e-mail to disclaimer@fluxmans.com and our disclaimer will be forwarded to you.

fluxmans

ATTORNEYS

Tel: +27 (11) 328-1700, Fax: +27 (11) 880-2261
 30 Jellicoe Avenue, Rosebank, Johannesburg, 2196
 Private Bag X41, Saxonwold, 2132, South Africa
 Docex 54 Johannesburg, Website:
www.fluxmans.com
 Fluxmans Inc. Registration No: 2000/024775/21
 BEE Status: Level 5

Our Ref : CJS/np/128582/1381482_1/

Your Ref :

Date : 28 November 2015

Writer's Direct Line: 011 328 1843

Email: cstrime@fluxmans.com

Fax: 011 880 2261

BY EMAIL

CALLUM O'CONNOR
 BAKER MCKENZIE
 BY EMAIL: Callum.OConnor@bakermckenzie.com

COPY BY EMAIL TO

GERHARD RUDOLPH
 BAKER MCKENZIE
Gerhard.Rudolph@bakermckenzie.com

JOHN BELL
 BAKER MCKENZIE
John.Bell@bakermckenzie.com

BERNA MALAN
 BAKER MCKENZIE
Berna.Malan@bakermckenzie.com

LESETJA MORAPI
 BAKER MCKENZIE
Lesetja.Morapi@bakermckenzie.com

Dear Sir

**MAPOCHS MINE (PTY) LTD / JOHN EVANS / JOHN LIGHTFOOT // EAST METALS AG /
 MASTERCROFT S.A.R.L – URGENT APPLICATION**

1. Thank you for your email dated 27 November 2015 and the attached papers.
2. We do not have your clients' affidavit but an unsigned draft. We also note that your application has not been issued. We thus at this time cannot attribute to it the status of an application. Notwithstanding, reserving all our clients' rights to challenge the validity of and defects in or otherwise of your clients' application and without novating, waiving or prejudicing our clients or their rights in regard thereto, we attach:

Directors: P Vallet (Chief Executive Officer and Senior Partner), JK Antunes, MS Bloom, GB Brett, T Brett, C Carides, L dos Passos, BE Duma, IS Epstein, S Fisher, J Fung, D Furman, PL Kemp, LA King, JO Kingsbury, A Kruger, J Levitz, BF Marques, D Mer, J Michel, EG Migdal, AM Nikani, JH Phalane, DO Pretorius, F Rodrigues, J Shafir, CB Shapiro, IG Shapiro, AK Shardlow, SA Shoot, TA Simon, S Slom, AC Soldatos, CJ Strime, EB Tonini, KJ Van Huyssteen

Chief Financial Officer: VD Rubin C.A. (S.A.), M.B.A.

Senior Associate: S Perlman

Associates: M Anthony, G Bloch, C Blumenthal, S Christelis, C Dimitri, K Fuchs, R Hackner, J Kampel, S Kavanagh, R Lisinski, T Mokhele, A Perat, B Seleke, M Sethaba, P Steele

Consultant: M Kropman

Office Manager: H Smit

- 2.1 our clients' notice of intention to oppose; and
- 2.2 our clients' notice for security for costs.
3. Kindly ensure that your clients establish security. For this we will be satisfied if your clients pay into your trust account the quantum of security as reflected in our notice ie. a total of R300 000.00 and you provide us with the necessary and irrevocable undertaking to pay our clients' taxed bill of costs on presentation of such bill.

Yours faithfully


COLIN STRIME
FLUXMANS INC



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

CASE NO:

In the matter between:

EAST METALS AG

First Applicant

MASTERCROFT S.A.R.L

Second Applicant

and

EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED
(IN BUSINESS RESCUE)
(Registration Number: 1960/001900/06)

First Respondent

PIERS MARSDEN N.O.

Second Respondent

DANIEL TERBLANCHE N.O.

Third Respondent

MAPOCHS MINE (PTY) LTD (IN BUSINESS RESCUE)
(REGISTRATION NO.: 2008/009382/07)

Fourth Respondent

JOHN EVANS N.O.

Fifth Respondent

JOHN LIGHTFOOT N.O.

Sixth Respondent

**NOTICE OF INTENTION TO OPPOSE AN URGENT APPLICATION
ON THE ROLL – 30 NOVEMBER 2015**

BE PLEASED TO TAKE NOTICE THAT, without prejudice to any of their rights, the fourth, fifth and sixth respondents hereby notify the applicants of their intention to oppose this application and hereby appoint as the address for service of all documents in the above application:



- (i) the offices of **Fluxmans Inc**, 30 Jellicoe Avenue, Rosebank (Reference: C. Shapiro), care of **Jacobson & Levy Inc**, 215 Orient Street, Arcadia, Pretoria (Reference: J. Levy); as well as
- (ii) **Fluxmans Inc's** facsimile number, being 011 328 1859 marked for the attention of **Colin Strime**; and
- (iii) the following e-mail addresses: cstrime@fluxmans.com and jonathan@jllaw.co.za

Service may be effected at either or both of the addresses referred to in (i) and (iii) above.

DATED AT JOHANNESBURG ON THIS THE 28th DAY OF NOVEMBER 2015

**FLUXMANS INC ATTORNEYS
FOURTH, FIFTH AND SIXTH
RESPONDENTS' ATTORNEYS**

30 Jellicoe Avenue, Rosebank
Private Bag X41, Saxonwold, 2132
Docex 54, Johannesburg
Tel: (011) 328 1841
Fax: (011) 328 1859
Email: cshapiro@fluxmans.com
Ref: C SHAPIRO /lp/128582

C/O JACOBSON & LEVY INC.

215 Orient Street
Arcadia, Pretoria
Docex 52, Pretoria
Tel: (012) 342 3311
Fax: (012) 342 3313
Email: jonathan@jllaw.co.za
Ref: J. Levy

TO:



THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA
AND TO:

**BAKER MCKENZIE
APPLICANTS' ATTORNEYS**

1 Commerce Square
39 Rivonia Road
Sandhurst, Johannesburg
(011) 911 4300

Ref: G Rudolph/JB/CO/BM

Email:

john.bell@bakermckenzie.com

callum.oconnor@bakermckenzie.com

Received a copy hereof on this the ____

day of _____ 2015

FOR: APPLICANTS' ATTORNEYS

AND TO:

**EVRAZ HIGHVELD STEEL AND
VANADIUM**

(IN BUSINESS RESCUE)

First Respondent
c/o ENSafrica

SERVICE VIA EMAIL

goertel@ens.co.za

lfield@ens.co.za

AND TO:

PIERS MARSDEN N.O.

Second Respondent
c/o ENSafrica

SERVICE VIA EMAIL

goertel@ens.co.za

lfield@ens.co.za

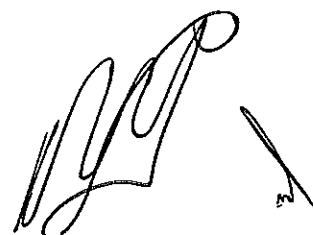
AND TO:

DANIEL TERBLANCE N.O.

Third Respondent
c/o ENSafrica

SERVICE VIA EMAIL

goertel@ens.co.za
lfield@ens.co.za

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long, sweeping tail that extends towards the bottom right corner of the page.

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

CASE NO:

In the matter between:

EAST METALS AG

First Applicant

MASTERCROFT S.A.R.L.

Second Applicant

and

**EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED
(IN BUSINESS RESCUE)**

First Respondent

(Registration Number: 1960/001900/06)

PIERS MARSDEN N.O.

Second Respondent

DANIEL TERBLANCHE N.O.

Third Respondent

**MAPOCHS MINE (PTY) LTD (IN BUSINESS RESCUE)
(REGISTRATION NO.: 2008/009382/07)**

Fourth Respondent

JOHN EVANS N.O.

Fifth Respondent

JOHN LIGHTFOOT N.O.

Sixth Respondent

**FOURTH, FIFTH AND SIXTH RESPONDENTS' NOTICE IN TERMS OF RULE 47(1)
IN URGENT APPLICATION PROCEEDINGS INSTITUTED BY THE APPLICANTS**

KINDLY TAKE NOTICE THAT the fourth, fifth and sixth respondents demand of the applicants that they provide on an urgent basis and before 09h00 on 30 November 2015, the fourth, fifth and sixth respondents with security for costs in the sum of



R300,000.00 (Three Hundred Thousand Rand) (R150 000.00 each) for, *inter alia*, the following reasons:

1. The applicants are both peregrinus of this Honourable Court and state as much. Paragraph 4.1 and 5.1 of their founding affidavit reads as follows:

"4.1 The first applicant is **EAST METALS AG**, a limited liability company duly registered and incorporated in accordance with the laws of Switzerland, with its principal place of business at Baarerstrasse 131, 6300 Zug, Switzerland..".

"5.1 The second applicant is **MASTERCROFT S.A.R.L.**, a limited liability company duly registered and incorporated in accordance with the laws of the (sic) Luxembourg and with its principal place of business at 46A, avenue J.F. Kennedy, L-1855 Luxembourg..".

2. Thus neither their registered address nor their principle place of businesses are within the jurisdiction of this Honourable Court nor within the Republic of South Africa;
3. The applicants have no assets of any value that are subject to the jurisdiction of the South African courts and that are capable of attachment such that they may satisfy on the realisation or sale thereof, any costs which the fourth, fifth and sixth respondents may secure against the applicants in these proceedings.

Given the gravity of the matter, the complex issues to be determined, the extreme time pressures imposed upon the respondents by the applicants, the number of counsel involved, the sum of R300,000.00 (Three Hundred Thousand Rand) is the fourth, fifth and sixth respondents' reasonable estimate of the costs they will incur in this matter up to and including the hearing of this urgent application. The estimate is



subject to the fourth, fifth and sixth respondents' rights to approach the Registrar to increase the quantum of the security pursuant to Rule 47(6).

TAKE NOTICE FURTHER that should the applicants contest their liability to give security or should the applicants fail or refuse to furnish security in the amount demanded, or in an amount to be fixed by the Registrar before the hearing of the urgent application on 30 November 2015, the third, fourth and fifth respondents will, *inter alia*, make application to court for an order that such security be given and that these proceedings be stayed and until such order is complied with.

DATED AT JOHANNESBURG ON THIS THE 28th DAY OF NOVEMBER 2015

**FLUXMANS INC ATTORNEYS
FOURTH, FIFTH AND SIXTH
RESPONDENTS' ATTORNEYS**
30 Jellicoe Avenue, Rosebank
Private Bag X41, Saxonwold, 2132
Docex 54, Johannesburg
Tel: (011) 328 1841
Fax: (011) 328 1859
Email: cshapiro@fluxmans.com
Ref: C SHAPIRO /lp/128582

C/O JACOBSON & LEVY INC.
215 Orient Street
Arcadia, Pretoria
Docex 52, Pretoria
Tel: (012) 342 3311
Fax: (012) 342 3313
Email: jonathan@jllaw.co.za
Ref: J. Levy

TO:

THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA



AND TO:

**BAKER MCKENZIE
APPLICANTS' ATTORNEYS**

1 Commerce Square
39 Rivonia Road
Sandhurst, Johannesburg
(011) 911 4300
Ref: G Rudolph/JB/CO/BM
Email:

john.bell@bakermckenzie.com
callum.oconnor@bakermckenzie.com

Received a copy hereof on this the ____
day of _____ 2015

FOR: APPLICANTS' ATTORNEYS

AND TO:

**EVRAZ HIGHVELD STEEL AND
VANADIUM
(IN BUSINESS RESCUE)**

First Respondent
c/o ENSafrica

SERVICE VIA EMAIL
goertel@ens.co.za
lfield@ens.co.za

AND TO:

PIERS MARSDEN N.O.
Second Respondent
c/o ENSafrica

SERVICE VIA EMAIL
goertel@ens.co.za
lfield@ens.co.za

AND TO:

DANIEL TERBLANCE N.O.
Third Respondent
c/o ENSafrica

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goertel@ens.co.za
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A handwritten signature and initials are visible in the bottom right corner of the page. The signature appears to be a stylized name, possibly 'D. Terblance', and there are some initials next to it.