

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

CASE NO: 85549/2015

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

in re

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
COMPANIES AND INTELLECTUAL PROPERTY COMMISSION	Fourth Respondent
THE CREDITORS OF THE FIRST RESPONDENT LISTED IN ANNEXURES "A" AND "B" TO THE NOTICE OF MOTION	Fifth Respondents
THE EMPLOYEES OF THE FIRST RESPONDENT	Sixth Respondents
NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA	Seventh Respondent
SOLIDARITY UNION	Eighth Respondent
RMB SECURITIES (PROPRIETARY) LIMITED	Ninth Respondent
THE REMAINING SHAREHOLDERS OF THE FIRST RESPONDENT	Tenth Respondents
SOUTH AFRICAN REVENUE SERVICE	Eleventh Respondent
INTERNATIONAL RESOURCES PROJECT LIMITED	Twelfth Respondent

APPLICANTS' REPLYING AFFIDAVIT IN THE APPLICATION FOR SUBSTITUTED
SERVICE

I, the undersigned,

CALLUM MICHAEL O'CONNOR

do hereby make oath and say that:

1. I am the deponent to the founding affidavit.
2. The facts contained herein fall within my personal knowledge and belief and are, save where the context indicates to the contrary, both true and correct.
3. I have read the first to third respondents' answering affidavit to the applicants' application for substituted service. I shall refer to the first to third respondents as the opposing respondents.
4. The opposing respondents have adopted an obstructive approach in raising technical objections to the proposed form of substituted service. Most of the answering affidavit is argumentative and designed to hinder the hearing and determination of the matter rather than facilitate service and/or notice of the application to the affected parties.
5. The applicants have invited the opposing respondents and again invite the opposing respondents to co-operate with the applicants to agree on an effective form of substituted service that can be placed before the Court.

6. In light of the argumentative nature of the answering affidavit, I do not intend dealing separately with every allegation raised by the opposing respondents and to the extent necessary the appropriate argument will be made at the hearing of the matter.
7. Prior to receipt of the answering affidavit in this Application, the respondents delivered their answering affidavit to the urgent interdict application previously launched by the applicants ("**the Urgent Interdict Application**"). In that affidavit the respondents raised the point that the Urgent Interdict Application may, if it include the founding affidavit in the main application (which it does), consist of more than 500 pages. This means that the Urgent Interdict Application cannot be enrolled for hearing by the urgent court on 17 November 2015, and that the Deputy Judge President will have to be approached for directions on the further conduct of the matter.
8. In the premises, on 5 and 6 November 2015 Baker & McKenzie informed the respondents that the Urgent Interdict Application will not be enrolled on 17 November 2015 and that the Deputy Judge President of this Honourable Court will be approached for purposes of seeking a directive in respect of the enrolment and hearing thereof.
9. Copies of the letters addressed to ENSafrica are annexed hereto marked as "**CC1**" and "**CC1.1**", respectively.
10. This application for substituted service has been enrolled for 17 November 2015 and will therefore be heard prior to the enrolment and hearing of the Urgent Interdict Application.

11. Therefore the objections raised by the opposing respondents in their answering affidavit that this application for substituted service will only be heard simultaneously with the Urgent Interdict Applicant and so not afford the affected parties sufficient notice of the Urgent Interdict Application are now moot.
12. In any event, the Applicants submit that it is not necessary that the Urgent Interdict Application be formally served on all the affected parties but that as only interim (temporary) relief is sought, notice in the prescribed form of the Urgent Interdict Application will suffice.
13. The opposing respondents have already on 30 October 2015 furnished the affected parties the prescribed notice of the Urgent Interdict Application by publication of the notice on the first respondent's website. I annex a copy of this notice as **"CC2"**.
14. On 5 November 2015 the opposing respondents attended to a SENS announcement to shareholders in relation to the Urgent Interdict Application, and a copy of which was published by them on the first respondent's website. I annex a copy of the announcement as **"CC3"**.
15. On 5 November 2015 the opposing respondents attended to publish a notice on the first respondent's website that the opposing respondents were opposing the Urgent Interdict Application, updating affected parties on the main and Urgent Interdict Application and informing affected parties that a full set of the Urgent Interdict Application papers was available from them. I annex a copy of this notice as **"CC4"**.

16. On 5 November 2015 the opposing respondents also attended to publish on the first respondent's website a complete copy of its opposing papers to the Urgent Interdict Application.
17. I annex as "CC5" a printout from the first respondent's website reflecting the notices published by the opposing respondents.
18. The opposing respondents have accordingly published on the first respondent's website complete copies of:
 - 18.1. the applicants' Main Application;
 - 18.2. the opposing respondents opposing papers to the Urgent Interdict Application.
19. Accordingly there should be no difficulty in the opposing respondents publishing a copy of the applicants' Urgent Interdict Application with founding affidavit and annexes on the first respondent's website. I do not know why the opposing respondents have not done so, particularly as they have published their opposing papers to that application.
20. In doing so, the affected parties will have been furnished notice of the Urgent Interdict Application.
21. To the extent that the Honourable Court is of the view that service needs to be effected of the Urgent Interdict Application, beyond publication on the first respondent's website, the appropriate order to that effect can be made.
22. AD PARAGRAPHS 13 TO 17

- 22.1. The concept of business rescue, its procedures and its practicalities remain relatively new to South African law and is the subject of on-going clarifying case law.
- 22.2. The requirement that joinder of affected parties, in contrast to notice on affected parties, is necessary in relation to certain proceedings has only recently been pronounced upon by the Supreme Court of Appeal. The relief sought by the applicants in the main application declaring that the business rescue plan and the vote in relation thereto be set aside is the type of relief that may require joinder and service on affected parties and for this reason the applicants launched the application for substituted service of the main application on affected parties.
- 22.3. What did the Supreme Court of Appeal did not have to deal with and so address was how practically service was to be effected on hundreds, if not thousands, of affected parties. The answer, it is submitted, is to be found in seeking appropriate directions from the Court by way of substituted service, so as to address the practical and logistical difficulties that would otherwise arise if the traditional forms of service provided for by Rule 4(1) are to be slavishly adhered to.
- 22.4. It is submitted that the form of substituted service proposed in this application for substituted service, and which was founded on the information provided by the opposing respondents themselves, is appropriate in the present circumstances.
- 22.5. Notably the opposing respondents do not offer any alternate suggestions or solutions, but instead adopt an obfuscatory approach.

22.6. The massive inconvenience and cost of serving on each affected person per sheriff is obvious. There are thousands of affected persons, consisting of creditors, employees and shareholders of the first respondent's listed securities. The applicants do not know the identities and/or contact details of most these affected persons, and in any event to effect service per sheriff on each of them will cost hundreds of thousands of rands.

22.7. In the circumstances I deny that the applicants have not made out a case for the Court to grant leave to the applications to deviate from the usual forms of service.

22.8. I attach a revised as "**CC6**" a revised notice "X" as referred to in paragraphs 2.1, 2.2, 3.1, 3.2, and 4.1 of the prayers in the notice of motion to this application for substituted service, which furnishes further information to the affected parties.

23. AD PARAGRAPH 18 TO 22

23.1. The applicants are bringing this Application in order to seek this Honourable Court's direction as to the most suitable manner of effected services, particular in relation to the difficulties raised by the respondents in the paragraphs under reply.

23.2. The purpose of the correspondence annexed to the founding affidavit under "SA1" coupled with the response thereto "SA2" was to ascertain which mechanisms of communications are presently utilised by the business rescue practitioners and whether same can be used and/or adapted for purposes of service.

- 23.3. The opposing respondents have communicated with the employees through employee's committees and meetings, as provided for in Chapter 6 of the Companies Act and as appears from paragraph 7.2 of the business rescue plan. The employee's committee consists of representatives from NUMSA, Solidarity and for independent employees not represented by trade unions. The opposing respondents clearly have the means available to them to ensure that as many employees as practically possible come to know of these proceedings.
- 23.4. Whilst these mechanisms were good enough for the opposing respondents to communicate and notify affected persons including employees, now that the applicants seek to adopt the same methods or to elicit the opposing respondents' support and co-operation, the opposing respondents contend that these mechanisms are insufficient.
- 23.5. The opposing respondents take issue that the applicants seek that service be effected by way of the Witbank News, the local newspaper circulating in the eMalahleni area where the first respondent's operations are situated. The applicants have no difficulty publishing the requisite notice in whichever newspaper is appropriate.
- 23.6. I also mention that both the Main and Urgent Interim Application have already received widespread attention in both the print and electronic media, such attention no doubt having been facilitated by the publication of the papers by the opposing respondents on the first respondent's website and by various public statements made by the second respondent as business rescue practitioner.

23.7. By way of example I mention and attach printouts of the following electronic media articles:

23.7.1. as "CC7.1" an article by BDLive dated 8 November 2015;

23.7.2. as "CC7.2" an article on MetalBulletin dated 5 November 2015;

23.7.3. as "CC7.3" a notification by Reuters dated 5 November 2015;

23.7.4. as "CC7.4" an article by Mining Review.Com dated 1 November 2015.

23.8. In the circumstances, I respectfully submit that any affected person who has an interest in the proceedings with minimal effort will come to know of the proceedings.

24. AD PARAGRAPH 23

24.1. It is rather startling for the respondents to make the allegations as they do in this paragraph particularly in view of them having allowed the said unions to vote on the business rescue plan during the creditors meeting and also file supporting affidavits to their opposition to the Urgent Interim Application on behalf of the employees.

24.2. To now suggest that the Applicants' err in seeking to effect service on employees though the Unions is disingenuous.

24.3. The opposing respondents stance again underscores the obstructive manner in which they are only seeking to delay the hearing of the main application and the Urgent Interdict Application on its merits.

25. AD PARAGRAPH 24 TO 26

- 25.1. Again, it must be reiterated that the applicants are making, in the absence of any settled law and direction, suggestions as to the most practical and appropriate method of effecting service on thousands of respondents.
- 25.2. Service of the entire main application just short of 350 pages raises a further impracticality in relation to have electronic transmission thereof, or publication of the entire main application in a newspaper or attaching the entire main application to a notice board.
- 25.3. The notice of motion to the main application clearly sets out the relief sought by the applicants and would enable any one of the affected parties to decide whether the relief sought is of such a nature which would affect its rights in such a way that it would want to oppose the main application and therefore require a copy of the founding affidavit for purposes of filing opposing papers.
- 25.4. There can hardly be any inconvenience caused to respondents in obtaining the full set of papers in the main application from Baker & McKenzie or on the respondents' website as the applicants are more than willing to carry, and hereby tenders, all costs in relation to providing hard copies to any affected parties if so requested by any of them.
- 25.5. Baker & McKenzie has already, by virtue of publication of the main application on SENS and news reports received telephone calls from attorneys representing affected parties requesting to be furnished with

the founding papers in the main application, which requests were promptly adhered to without any objection from such parties.

26. AD PARAGRAPHS 27 TO 29

26.1. I have already dealt with the service of the Urgent Interdict Application.

26.2. To the extent that my email annexed as "PM1" refers to "service" of the Urgent Interdict Application, this was erroneous and I apologise for the error.

27. AD PARAGRAPH 44

27.1. The purpose of "SA1" to the main application is clear in its purpose and request in relation to the information sought.

27.2. It is disconcerting that the respondents are now, having had the opportunity in the form of "SA2" to provide contact details of affected parties, suggesting that there are further contact details which the applicants did not enquire about.

27.3. It is open to the opposing respondents, and specifically the second and third respondent as officers of this Honourable Court, at the hearing of this Application to provide the Court with alternative means by which practical and cost-effective substituted service can be effected on the affected parties.

WHEREFORE the applicants persist in seeking the relief set out in the application.



CALLUM MICHAEL O'CONNOR

Thus signed and sworn to before me at Sandton on this the 10 day of November 2015, the deponent having acknowledged that he knows and understands the contents of this affidavit and having declared that he has no objection to taking the prescribed oath and that he considers the oath to be final and binding on his conscience.



COMMISSIONER OF OATHS

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Designation Attorney

MANDY ELIZABETH CLAASSENS

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

5 November 2015

Paul Winer, Gary Oertel, Letitia Field
ENSAfrica

Our ref: G Rudolph/JB/CO/BM
Your ref: P Winer/G Oertel/L Field
By email
pwiner@ens.com, goertel@ens.com,
lfield@ensafrica.com

Dear Sirs/Madam

**MASTERCROFT S.A.R.L & EAST METALS AG / EVRAZ HIGHVELD STEEL AND
VANADIUM LIMITED AND OTHERS : CASE NO: 85549/15**

1. We acknowledge your email and draft letter to the Deputy Judge President ("DJP"), dated 5 November 2015. We also refer to the discussions between our respective counsel earlier today.
2. In light of the fact that the papers in the urgent application exceed 500 pages and given the urgency of the matter, we are instructed to approach the DJP directly to obtain his direction on the further conduct of the urgent application and main application.
3. We will be in contact with the DJP's registrar to enquire as to his availability during the course of next week and will invite you to attend such meeting.
4. Accordingly, we confirm that the only application that we will enrol at this stage is the application for substituted service, which your clients have opposed.

Yours sincerely

Gerhard Rudolph
Partner

011 911 4370
gerhard.rudolph@bakermckenzie.com

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

Directors

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CHETTY, Vani
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* Associated Firm

** In cooperation with
Trench, Ross & Watanabe
Advogados

6 November 2015

Paul Winer, Gary Oertel, Letitia Field
ENSAfrica

Our ref: G Rudolph/JB/CO/BM
Your ref: P Winer/G Oertel/L. Field
By email
pwiner@ens.com, goertel@ens.com,
lfield@ensafrica.com

Dear Sirs/Madam

**MASTERCROFT S.A.R.L & EAST METALS AG / EVRAZ HIGHVELD STEEL AND
VANADIUM LIMITED AND OTHERS: CASE NO: 85549/15**

1. We acknowledge receipt of your 6 October 2015 letter.
2. The main application forms part of the urgent interdict application, both, intentionally so, under the same case number. The position is no different than if our clients had launched a consolidated application containing a Part A to the notice of motion seeking the urgent interdictory relief and a Part B seeking final relief, both of which would have been founded on the same affidavit.
3. Our clients expressly foreshadowed in paragraph 45 of their founding affidavit in the main application that the affidavits may be supplemented and interim relief sought on an urgent basis. The founding affidavit to the urgent interdict application under the same case does just that, and incorporates the entire founding affidavit in the main application. This is clear from paragraphs 5 to 8 of the affidavit to the urgent interdict application.
4. Your clients are not at liberty to unilaterally decide differently and in the circumstances your clients are not entitled to decline to address the allegations in the founding affidavit in the main application in relation to the relief sought in the urgent interdict application. Your clients' election to do so is at their own peril.
5. We are preparing replying affidavits both in the urgent interim application and in the application for substituted service.
6. In the circumstances the urgent interim application exceeds 500 pages, and our clients intend complying with the Practice Manual.
7. We also disagree with your understanding of the Practice Manual, which does not require that there be a complete set of papers before the DJP can be approached.

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

Directors

BERNSTEIN, Daryl
CHETTY, Vani
DANIELS, Kate
DU PLESSIS, Wildu
JANSE VAN RENSBURG, Mike

RUDOLPH, Gerhard
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PREISS, Mark

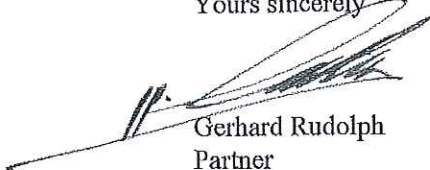
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M.E.C
CMT

In the circumstances our clients' rights to approach the DJP remain reserved in relation to the further conduct of the matter in the whole but we shall furnish you with notice thereof.

8. Nonetheless our clients remain open to and would prefer a constructive approach to the litigation. This is evident from our clients' tender in paragraph 50 of the affidavit in support of the urgent interdict application to co-operate in order to have an expedited hearing of the matter.
9. Our clients propose that a holistic and sensible approach be adopted. As there is to be an expedited hearing in any event of the urgent interdict application as it exceeds 500 pages, we suggest that the expedited hearing be utilised to entertain the main application, which may render it unnecessary to have a separate determination of the urgent application depending on when that expedited hearing is.
10. To this end we propose that we agree:
 - 10.1. on a truncated timetable for the exchange of papers in the main application;
 - 10.2. on an appropriate consent order in relation to substituted service of the main application and to the extent the urgent interim application (we do not concede that the urgent interim application need necessarily be served on all affected parties), which order can then be granted by the urgent court on 17 November 2015 and which can then resolve any concerns your clients may have as to the efficacy of service of the applications on affected parties; and
 - 10.3. that the DJP be approached for an expedited hearing.
11. In any event, it seems a senseless exercise to have litigation in relation to the appropriate form of substituted service and we invite your clients to furnish us with their proposal as to what would constitute the appropriate order that should be granted in relation to substituted service. It may well be that your clients as business rescue practitioners are best placed to suggest what the most appropriate and cost-effective form of substituted service may be and to this end your clients were intentionally given notice of what would ordinarily have been an ex parte application for substituted service.
12. Our clients' rights remain reserved.

Yours sincerely



Gerhard Rudolph
Partner

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30 October 2015

**NOTICE TO AFFECTED PERSONS OF URGENT COURT PROCEEDINGS INSTITUTED AGAINST
INTER ALIA EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE)
("HIGHVELD"), THE BUSINESS RESCUE PRACTITIONERS OF HIGHVELD ("THE BRPS") AND
AFFECTED PERSONS
(CASE NO: 85549/2015)**

Dear Sirs

1. Please note that pursuant to the provisions of sections 144, 145, and 146 of the Companies Act, 71 of 2008 as amended ("the Companies Act"), notice is hereby given to all affected persons of urgent court proceedings which were instituted by East Metals AG ("EM") and Mastercrocft S.A.R.L. ("Mastercrocft") against *inter alia* Highveld, the BRPs and affected persons of Highveld.
2. In accordance with Regulation 6 of the Companies Act, the details of the abovementioned urgent court proceedings are as follows:
 - 2.1. On or about 26 October 2015, EM and Mastercrocft furnished the BRPs with a copy of an urgent application in terms of which EM and Mastercrocft seek to *inter alia* interdict and restrain Highveld and the BRPs from implementing the business rescue plan in respect of Highveld, pending the final determination of the main application launched under the above case number.
 - 2.2. Highveld and the BRPs intend opposing the urgent application.
3. Should you require a full copy of the papers in the above application, kindly forward your request to mscruse@matusonassociates.co.za.

Yours faithfully



PIERS MARSDEN N.O.
Joint Business Rescue Practitioner
on behalf of the Joint Business Rescue Practitioners of
EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED
(in business rescue)

Evrax Highveld Steel and Vanadium Limited

Registration No.: 1960/001900/06, Incorporated in the Republic of South Africa

Certified in accordance with the requirements of DIN EN ISO 9001: 2008 and DIN EN ISO 14001: 2004 Quality and Environmental Management Systems

P.O. Box 111, Witbank 1035, Tel: +27 (0) 13 690 9911, Fax: +27 (0) 13 690 9293, www.evraxhighveld.co.za, general@evraxhighveld.co.za

DIRECTORS: B Petersen (Chairman), I J Burger (Chief Executive Officer), M Bhabha,
A P Maralack, T Mosololi, D Ščuka (Czech), P S Tatyatin (Russian), T I Yanbukhtin (Russian)

COMPANY SECRETARY: Ms A Weststrate

"CC2"

ME-C
CMJ

Evraz Highveld Steel & Vanadium Ltd - Further Urgent Court Proceedings Instituted Under Case No: 85549/2015

11/11/15

Release Date: 05/11/2015 16:07:00 Code(s): EHS

Further urgent court proceedings instituted under case No: 85549/2015

EVRAZ Highveld Steel and Vanadium Limited
(Incorporated in the Republic of South Africa)
Registration No: 1960/001900/06
Share code: EHS ISIN: ZAE000146171
("Highveld" or "the Company")

FURTHER NOTICE TO SHAREHOLDERS OF EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED
(IN BUSINESS RESCUE) ("HIGHVELD"): FURTHER URGENT COURT PROCEEDINGS
INSTITUTED UNDER CASE NO: 85549/2015

Shareholders are advised of further urgent court proceedings instituted by East Metals AG ("EM") and Mastercroc S.A.R.L ("Mastercroc") against inter alia Highveld, the joint business rescue practitioner of Highveld ("the BRPs") and affected persons of Highveld.

In accordance with Regulation 6 of the Companies Act, the details of the abovementioned court proceedings are as follows:

On or about 2 November 2015, EM and Mastercroc furnished the BRPs with a copy of an urgent application in terms of which EM and Mastercroc seek leave to inter alia serve the main application on affected persons by way of substituted service.

Highveld and the BRPs opposed the urgent application and filed an answering affidavit on or about 5 November 2015.

A copy of the papers is also available upon request made to mscruse@matusonassociates.co.za.

eMalahleni
5 November 2015

Sponsor
J.P. Morgan Equities South Africa Proprietary Limited

Date: 05/11/2015 04:07:00 Produced by the JSE SENS Department. The SENS service is an information dissemination service administered by the JSE Limited ('JSE'). The JSE does not, whether expressly, tacitly or implicitly, represent, warrant or in any way guarantee the truth, accuracy or completeness of the information published on SENS. The JSE, their officers, employees and agents accept no liability for (or in respect of) any direct, indirect, incidental or consequential loss or damage of any kind or nature, howsoever arising, from the use of SENS or the use of, or reliance on, information disseminated through SENS.

M.E.C
CM

5 November 2015

**NOTICE TO AFFECTED PERSONS OF EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED (IN
BUSINESS RESCUE) ("HIGHVELD"): UPDATE IN URGENT INTERDICT PROCEEDINGS INSTITUTED
UNDER CASE NO: 85549/2015**

Dear Sirs

1. Please note that pursuant to the provisions of sections 144, 145, and 146 of the Companies Act, 71 of 2008 as amended ("the Companies Act"), notice is hereby given to all affected persons of Highveld's response to the urgent court proceedings which were instituted by East Metals AG ("EM") and Mastercrocft S.A.R.L ("Mastercrocft") against *inter alia* Highveld, the joint business rescue practitioner of Highveld ("the BRPs") and affected persons of Highveld.
2. In accordance with Regulation 6 of the Companies Act, the details of the abovementioned urgent court proceedings and update therein are as follows:
 - 2.1. On or about 26 October 2015, EM and Mastercrocft furnished the BRPs with a copy of an urgent application in terms of which EM and Mastercrocft seek to *inter alia* interdict and restrain Highveld and the BRPs from implementing the business rescue plan in respect of Highveld, pending the final determination of the main application launched under the above case number.
 - 2.2. On or about 30 October 2015, the BRPs filed a notice of intention to oppose the urgent interdict application.
 - 2.3. On or about 3 November 2015, the BRPs filed an answering affidavit to the urgent interdict application.
3. A copy of the notice of intention to oppose and the answering affidavit is available on Highveld's website under Business Rescue at <http://www.evrazhighveld.co.za/businessrescue.asp>.
4. A copy of the full papers in the urgent interdict application is also available upon request made to mscruse@matusonassociates.co.za.

Yours faithfully



PIERS MARSDEN N.O.

Joint Business Rescue Practitioner
on behalf of the Joint Business Rescue Practitioners of
EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED
(in business rescue)

Evraz Highveld Steel and Vanadium Limited

Registration No.: 1960/001900/06, Incorporated in the Republic of South Africa

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DIRECTORS: B Petersen (Chairman), I J Burger (Chief Executive Officer), M Bhabha,
A P Maralack, T Mosololi, D Ščuka (Czech), P S Tatyannin (Russian), T I Yanbukhtin (Russian)

COMPANY SECRETARY: Ms A Weststrate

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Leading Producer of Flat Products, Structural Steel and Vanadium Slag in South Africa



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Business Rescue

Contact Details

Anre Weststrate (Company Secretary)

E-mail: [Anre Weststrate](#)

Evraz Highveld: Business Rescue Practitioners

Daniel Terblanche / Piers Marsden

Website: [Bowman Gilfillan](#)

E-mail: [Business Rescue](#)

Mapochs Mine: Business Rescue Practitioners

John Evans

E-mail: [John Evans](#)

John Lightfoot

E-mail: [John Lightfoot](#)

Website: [Bowman Gilfillan](#)

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- 01 OCT 2015 - EVRAZ HIGHVELD: NOTICE OF THE AFFECTED PERSONS GENERAL MEETING - 08 OCTOBER 2015 AT 11H00 AT EVRAZ HIGHVELD STEEL
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**NOTICE OF APPLICATION BY EAST METALS A.G. ("East Metals") AND
MASTERCROFT S.a.R.L. ("Mastercroft") IN THE HIGH COURT OF SOUTH
AFRICA, GAUTENG LOCAL DIVISION, PRETORIA UNDER CASE NUMBER
85549/2015 ["the Application"], SEEKING RELIEF RELATING TO THE
BUSINESS RESCUE PROCESS OF EVRAZ HIGHVELD STEEL AND VANADIUM
LIMITED (IN BUSINESS RESCUE) (Registration Number 1960/001900/08) ("the
Company")**

1. This is an important notice of legal proceedings that affects you directly.
2. You are cited as a respondent in these proceedings as you are an affected person, either as a creditor, employee or shareholder of the Company, and the relief that is sought, if granted, will or may affect you.
3. This notice is furnished to you in lieu of service of the application on you, as ordered by the High Court of South Africa on 17 November 2015, under this case number. This is because the application is too voluminous and the affected parties too many to effect individual service of the entire application on each of you. A copy of the notice of motion to the application is attached.
4. Please read this notice and the notice of motion carefully. You are entitled to oppose the proceedings but must do so by delivering notice of intention to oppose by no later than _____. If necessary, please consult your attorneys or other professional advisors.
5. In the application East Metals as a major creditor and Mastercroft as the majority shareholder applies to the High Court of South Africa, Gauteng Local Division, Pretoria, under case number 85549/2015 for the following relief:
 - 5.1 Granting East Metals and Mastercroft leave in terms of section 133(1) of the Companies Act, 2008 to launch the proceedings insofar as may be necessary;
 - 5.2 Declaring that the vote that took place at the meeting of 13 October 2015 at which the Business Rescue Plan for the Company was adopted is invalid and is to be set aside;
 - 5.3 Declaring that the business rescue plan of the Company is invalid;
 - 5.4 Declaring that the agreement on remuneration of the business rescue practitioners of the Company as provided in paragraph 14 of the Plan is invalid and is to be set aside;
 - 5.5 Declaring that the cost of the Main Application be costs of the business rescue proceedings of the Company, unless there is opposition.
6. If this relief is granted, the business rescue plan that was adopted on 13 October 2015 and which would otherwise be implemented by the business rescue practitioners will NOT be implemented.

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7. The main grounds upon which East Metals and Mastercroft's seek the relief are that:
- 7.1 the business rescue practitioners permitted a large body of creditors to vote on the business rescue plan on 13 October 2015 without disclosing those creditors in the plan and without disclosing that those creditors were present at the meeting on 13 October 2015 and would exercise votes on the plan;
 - 7.2 the business rescue plan did not contain all the information reasonably required to enable affected persons to decide whether to accept or reject the plan, including the inclusion of an additional R1,4 billion alleged creditors and which would have a major effect on any dividend payable in business rescue or upon liquidation;
 - 7.3 as a result the affected persons were ambushed by the inclusion in the votes of creditors of a large body of persons who had not been disclosed before or at the statutory meeting on 13 October 2015 and which disclosure was made by the business rescue practitioners only after the vote had already taken place and only after enquiry;
 - 7.4 in any event, the plan affects the rights of shareholders but no vote of shareholders was conducted as required in terms of the Companies Act.
8. The Company and the business rescue practitioners are opposing the application.
9. An electronic and complete copy of the application including the supporting affidavit and annexes is available for download on the Company's website.
10. A complete copy of the application is also available from the attorneys for East Metals and Mastercroft at the contact details below free of charge.
11. Should you have any queries, please contact us using the contact information provided below:

Baker & McKenzie

Berna Malan

Tel: +27 11 911 4300

Email: service.johannesburg@bakermckenzie.com

Monday, November 09 2015

18°C Johannesburg

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5 day forecast



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Hi 27°C | Low 10°C



Thursday

Hi 28°C | Low 11°C



Friday

Hi 29°C | Low 11°C



Saturday

Hi 30°C | Low 10°C



Sunday

Hi 28°C | Low 13°C

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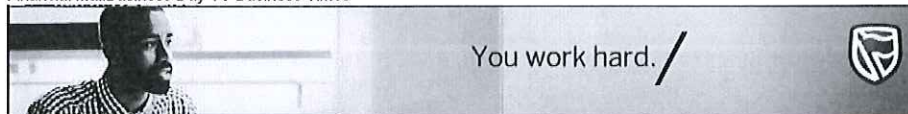
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NEWS ANALYSIS: Court cases put spoke in wheel of Highveld sale

by Mark Allix, 06 November 2015, 05:30

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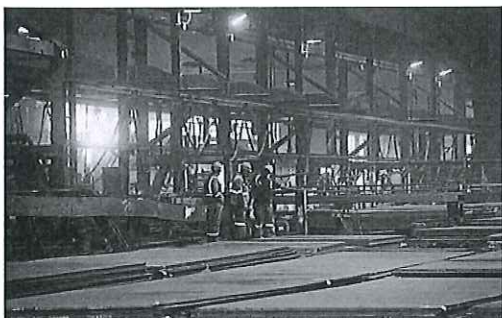
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STALLED: Workers at the Evraz Highveld steel plant in Emalahleni. Picture: SUNDAY TIMES

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In this article

- **JSE-listed companies:** Evraz Highveld Steel and Vanadium
-
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EVRAZ Highveld Steel & Vanadium's business rescue process is being rocked by serial court actions after the company's London-based parent, Evraz plc, filed a third urgent application to halt proceedings, after filing a second and urgent application late last month.

The first application, filed a week before the second one by wholly owned Evraz plc subsidiaries East Metals and Mastercraft, wants the High Court in Pretoria to invalidate Evraz Highveld's rescue plan, and the October 13 creditors' vote that adopted it, and to set the plan aside.

The joint business-rescue practitioners say the second application seeks an interdict to stop them implementing the rescue plan while the main application is pending, and is clearly designed to "frustrate" the rescue process. They filed an answering affidavit to the application this week.

They have also filed an answering affidavit to the third application, which seeks leave to serve the main application on affected persons by way of "substituted service".

Russian-backed Evraz plc has reacted to the assertion that it is frustrating business rescue by saying "it remains fully supportive" of the process, and wants to save jobs and resume operations at Highveld.

However, it also says the business rescue practitioners have failed to "utilise abundant time and resources to search for viable solutions and to produce a sustainable plan that will lead to resuming operations at Highveld", and that the plan fails to "reflect fair value for the interests of creditors, employees and the steel industry overall".

"It is the considered view of Evraz that the plan currently put forward by the business-rescue practitioners gives no assurance of a successful resumption in future trading and substantive employment by Highveld. Nor does it offer creditors a better return than they are likely to receive even in a liquidation scenario, which Evraz strongly opposes," the parent company adds.

One thing is sure, the argument and counterargument is putting a giant spoke in the wheel of the possible sale of Evraz Highveld to Hong Kong-based International Resources, which had offered to pay a nominal R350m to the steel maker's creditors and R20m to shareholders. The group claims substantial knowledge of and has operations in global steel and vanadium markets.

Much is at stake if SA's second-largest steel producer is allowed to fade into oblivion. Already, about half of 2,400 jobs are likely to be lost in a significant restructuring under the agreed business-rescue plan.

As part of the plan, International Resources says it will pump R1bn working capital into Highveld, and R4bn more over the next four to five years. It says this is so that it can ramp up output at the shuttered mill to pre-2008 levels within 18 months, and to 1,500 tonnes a year in the next four years.

It also aims to establish an ultrahigh-grade vanadium pentoxide production line and a 75% purity titanium slag line, and wants to build a 200MW power plant to offset the high cost and unreliable supply of electricity from Eskom.

In this context, Evraz plc — one of the largest producers of vanadium — stands to gain by letting Highveld go into liquidation. When Evraz plc bought Highveld it was forced by European Union competition authorities to divest certain vanadium assets. Liquidating Highveld would remove about 10% of vanadium supply from the global value chain. The alloy is used in steel products such as high-speed tools and jet engines.

Perhaps what makes the International Resources offer most attractive is that the company has agreed to offer shares to "suitable black economic empowerment entrepreneurs", particularly Siyolo Energy and African Resources run by businessman Iqbal Surve. It says "the intention is that (Highveld) will have a local participation and racial profile in keeping with the policies and aspirations of the government of SA".

But the goalposts are being substantially moved by Evraz plc's court actions. Evraz plc has an 85% shareholding in Highveld and a creditors' claim of R380m. It is estimated that R1.2bn is owed to Highveld's 600 trade creditors, excluding a tax claim of about R550m invoked by the South African Revenue Service (SARS). There is also a possible R600m of environmental clean-up costs. But trade creditors, the unions and the tax man have all agreed to the sale of Highveld to International Resources as being the only likely positive outcome for the economy and the Emalahleni region, where the steel mill is located.

The 12 respondents to the applications include SARS, the Companies and Intellectual Property Commission, the National Union of Metalworkers of SA, trade union Solidarity as well as RMB Securities.

Solidarity now says it will oppose Evraz plc's urgent application, making it the final respondent to do so. The union says Evraz plc contends that the revenue service does not have the authority to vote in favour of the business rescue plan along with other creditors. But the union says such is the tax man's desire to save the company that it opted to be an equal creditor instead of a first beneficiary.

The urgent application is expected to be heard in the High Court in Pretoria on November 17. It appears that East Metals and Mastercraft have taken on a veritable array of powerful interests in their applications. The business rescue practitioners say Highveld's rescue plan has received overwhelming support from creditors, labour and the government, with more than 90% of independent creditors voting in favour.

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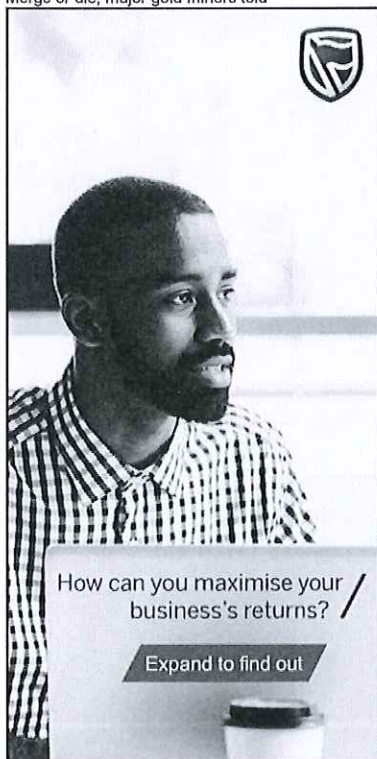
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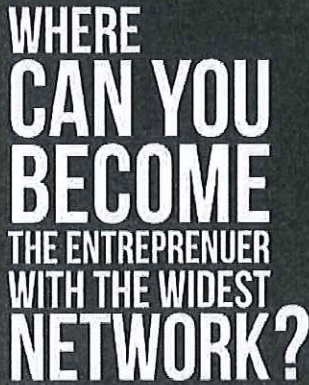
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EVRAZ HIGHVELD: Highveld, BRPs move to prevent rescue plan from being halted

November 05, 2015 - 17:13 GMT **Location:** London

KEYWORDS: Evrax Highveld , vanadium , business rescue , South Africa

Troubled South African company Evraz Highveld Steel & Vanadium has moved to stop the urgent application to have its business rescue plan halted.

The company and its business rescue practitioners (BRPs) have formally filed their opposition to the legal proceedings brought by East Metals, a major creditor of Highveld, and Mastercroft, an 85% shareholder, in the South African High Court at the end of October. East Metals and Mastercroft made the main application on October 21 and the urgent application on October 30. All companies are subsidiaries of Evraz plc. Evraz released a statement on November 5, saying it is in favour of business rescue and denying it is attempting to "frustrate" the process. In their answering affidavit, Highveld and the BRPs have said East Metals and Mastercroft's founding affidavit, submitted with the main application, "contains numerous untrue allegations". Highveld and the BRPs have further alleged that the founding affidavit "misled" the court and was "an attempt to cast a disparaging light on the [BRPs] and the business rescue plan". Furthermore, according...

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* Has filed notice of intention to oppose further urgent court proceedings East Metals AG and Mastercrocft have instituted against inter alia Highveld Source text for Eikon: Further company coverage: (Bengaluru Newsroom + 91 80 6749 1136)

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Evraz Highveld-linked companies seek further court interdict against the rescue plan

Posted by: Chantelle Kotze

November 1, 2015

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Evraz Highveld-linked companies East Metals and Mastercraft are seeking an urgent court interdict against the implementation of **Evraz Highveld Steel and Vanadium**'s business rescue plan and its business rescue practitioners.

This follows recent court proceedings instituted against Evraz Highveld, its joint business rescue practitioners and several other affected persons by these companies.

East Metals and Mastercraft approached the High Court last month to have the **business rescue plan** of Highveld declared invalid and have the vote, which took place at the meeting on 13 October 2015, in terms of which the business rescue plan was adopted, also declared invalid and set aside.

East Metals and Mastercraft have now again approached the court to restrain Highveld and the BRPs from implementing the business rescue plan in respect of Highveld, pending the final determination of the main application stop the implementation of the business rescue plan.

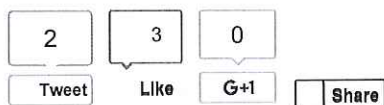
Highveld and the business rescue practitioners intend opposing the application.

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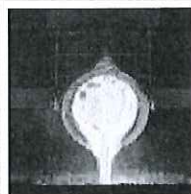
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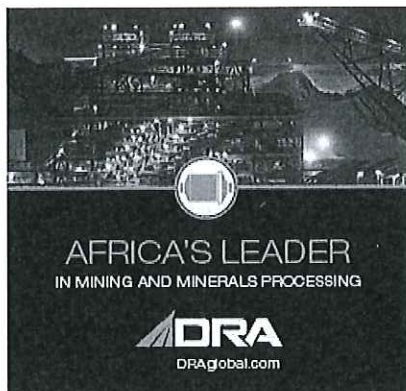
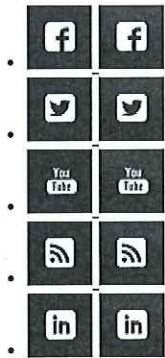
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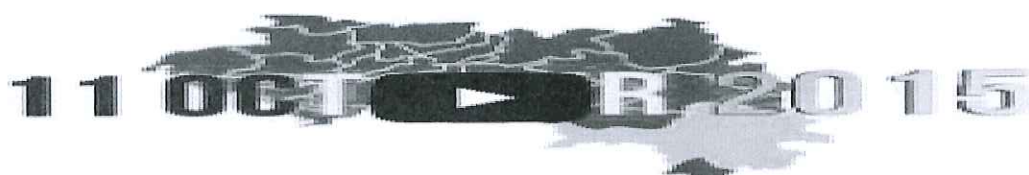
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