

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

4/11/2016

Case Number: 88570/2014

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES ~~NO~~

(2) OF INTEREST TO OTHER JUDGES: YES ~~NO~~

(3) REVISED. ✓

4/11/16

DATE

*[Signature]*

SIGNATURE

**In the matter between:**

**SOUTH AFRICAN RESERVE BANK**

APPLICANT

And

BARIT, LAWRENCE  
BARIT, SHIMON  
DUERR, MICHAEL  
DUERR, SOPHIA MARY  
DUERR, JOSEPHINE JOHANNA  
DÜRR, FREDERIC MICHAEL  
DÜRR, CAROLIN CHARLOTTE  
DÜRR, PETER  
DÜRR, ERNST ALBERT

1<sup>ST</sup> RESPONDENT

2<sup>ND</sup> RESPONDENT

3<sup>RD</sup> RESPONDENT

4<sup>TH</sup> RESPONDENT

5<sup>TH</sup> RESPONDENT

6<sup>TH</sup> RESPONDENT

7<sup>TH</sup> RESPONDENT

8<sup>TH</sup> RESPONDENT

9<sup>TH</sup> RESPONDENT

DÜRR, ELFRIEDE LUISE	10 <sup>TH</sup> RESPONDENT
DÜRR, WERNER MARKUS	11 <sup>TH</sup> RESPONDENT
GUIZZARDI, GINA	12 <sup>TH</sup> RESPONDENT
GUIZZARDI, OSCAR	13 <sup>TH</sup> RESPONDENT
GUIZZARDI, MANRICO	14 <sup>TH</sup> RESPONDENT
HATHORN, CHRISTOPHER BLAIKIE	15 <sup>TH</sup> RESPONDENT
HATHORN, WALTER PIPER	16 <sup>TH</sup> RESPONDENT
JOUBERT, GEORGE ROLLAND	17 <sup>TH</sup> RESPONDENT
JOUBERT, SALLY HELEN HANSCOMB	18 <sup>TH</sup> RESPONDENT
LANG, MICHAEL	19 <sup>TH</sup> RESPONDENT
SMUDE-LANG, SIBYLLA	20 <sup>TH</sup> RESPONDENT
LANG, NICHOLAS HENDRIK	21 <sup>ST</sup> RESPONDENT
LANG, HERMAN WERNER	22 <sup>ND</sup> RESPONDENT
MUNNIK, ZACHARIA PETRONELLA	23 <sup>RD</sup> RESPONDENT
MEYER, HENDRIK	24 <sup>TH</sup> RESPONDENT
MEYER, GWENDOLINE MILDRED	25 <sup>TH</sup> RESPONDENT
HENDRIK MEYER N.O. IN HIS CAPACITY AS TRUSTEE FOR THE TIME BEING OF THE H. MEYER FAMILY TRUST	26 <sup>TH</sup> RESPONDENT
GWENDOLINE MILDRED MEYER N.O. IN HER CAPACITY AS TRUSTEE FOR THE TIME BEING OF THE H. MEYER FAMILY TRUST	27 <sup>TH</sup> RESPONDENT
IVO MEYER N.O. IN HIS CAPACITY AS TRUSTEE FOR THE TIME BEING OF THE H. MEYER FAMILY TRUST	28 <sup>TH</sup> REPSONDENT
PRIEBATSCH, CHARLES DAVID	29 <sup>TH</sup> RESPONDENT
THE MASTER OF THE HIGH COURT	30 <sup>TH</sup> RESPONDENT

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## JUDGMENT

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Fabricsius J,

1.

Applicant herein is the South African Reserve Bank. It derives its authority and status from the provisions of ***Section 223 of the Constitution***. It is an organ of State as defined in Section 239 and is imbued with juristic personality pursuant to ***Section 2 of the South African Reserve Bank Act 89 of 1998 ("the Act")***.

2.

It has private shareholders. The number of shares a person may hold is restricted by the ***Act***. Sections 22 and 23 provide for this. In terms of Section 22 (1) (a), no shareholder is entitled to hold, or hold in aggregate with his associates more than 10 000 shares. An "associate" is defined, amongst others, as a close relative of the particular shareholder.

4

3,

The main purpose of the application is to direct the Respondent shareholders to dispose of those Reserve Bank shares which they hold in aggregate with their associates, in excess of 10 000.

4.

The Respondents and their associates are shareholders. In the Replying Affidavit, Applicant has limited the actual Respondents to numbers 1 to 11 and 17 to 28.

5.

The First and Second Respondents are the only Respondents who have delivered notices of intention to oppose and have filed an Opposing Affidavit according to the Rules of this Court. Second Respondent is the son of the First Respondent in whose name the Opposing Affidavit is drafted.

6.

I am however satisfied that all the other Respondents have properly been notified of the date of this hearing and that this was done timeously. It is not necessary to provide all the detail of such notifications in this judgment. It appears clearly from the record that the relevant Respondents are adults who would know, like everyone else, that they are also bound by the Rules of Court and cannot simply ignore them with impunity. No German Court would tolerate this either. Many of the initial Respondents have in fact regularized their share-holding according to law.

7.

The Opposing Affidavit of the First and Second Respondents which comprises some 64 pages is a model of evasiveness, of a delaying strategy, of argumentative nature and even contains unwarranted accusations of *mala fides*. No substantiated defence to the claim which is founded in the *Act* appears. The authority of the deponent to the Founding Affidavit is challenged on spurious grounds. The deponent, who is a practicing Advocate, ought to have appreciated that the Applicant is merely acting

according to the clear, unambiguous provisions of the *Act*, to regularize the statutory share-holding. Nothing more, nothing less. The Respondents have no defence to the claim, unless the *Act* is set aside. The First Respondent also has no right, on the present facts, to make any submissions on behalf of the other absent Respondents. It is abundantly clear that the Respondents have not complied with *Regulations 3* of the *Regulations to the Act*, which were published on 13 September 2010.

## 8.

Before me is also an application by Applicant to strike out certain allegations in the so-called "Duerr document". It is not necessary to deal with those aspects. This "document" is not properly before me and I will simply ignore any irrelevant or scandalous allegations contained therein.

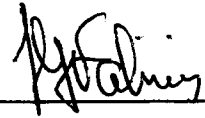
## 9.

The result is that Applicant's claim is well-founded in law and based on objective facts.

**9.1 Prayers 1, 2 and 3 of the Notice of Motion are granted as against**

**Respondents 1 to 11 and 17 to 28.**

**9.2 No order as to costs is made.**

A handwritten signature in black ink, appearing to read 'H.J. Fabricius', is written over a horizontal line.

**JUDGE H.J FABRICIUS**

**JUDGE OF THE HIGH COURT GAUTENG DIVISION, PRETORIA**

Case number: 88570/2014

Counsel for the Applicant:

Adv D. Unterhalter SC

Adv K. Hofmeyr

Instructed by: Werksmans Attorneys

Counsel for the 1<sup>st</sup> & 2<sup>nd</sup> Respondents:

Adv M. E. Manala

Instructed by: R. S. Tau Attorneys

Date of Hearing: 3 November 2016

Date of Judgment: 4 November 2016 at 10:00