IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT JOHANNESBURG

CASE NO: J4873/99

In the matter between:

NATIONAL UNION OF METAL WORKERS

Applicant

and

COMMISSION FOR CONCILIATION, MEDIATION

First Respondent

MOTOR INDUSTRY BARGAINING COUNCIL

Second Respondent

THE RETAIL MOTOR INDUSTRY

Third Respondent

JUDGMENT

LANDMAN J

1. The National Union of Metal Workers of South Africa (NUMSA) seeks a declaratory

order concerning a requirement for valid referrals of alleged unfair dismissals to the Commission for Conciliation, Mediation and Arbitration (the CCMA) or to a Bargaining Council. The CCMA , the Bargaining Council for the Motor Industry (MIBC) and The Retail Motor Industry Organisation (RMIO) have been cited as respondents. None of the respondents oppose the application. Adv H S van Jaarsveld, the director of the Dispute Resolution Centre of MIBC, has filed an affidavit stressing that the question before this court is not of academic or abstract nature. The RMIO has an interest in the matter as it is alleged that it has frequently contended that a representative or official of NUMSA may not refer a dispute on behalf of a dismissed employee.

2.This court is empowered to make any appropriate order including a declaratory order. See s 158(1)(a)(iv) of the Labour Relations Act 66 of 1995. The power to make a declaratory order is similar to the power conferred on the High Court to make such orders in terms of s 19(1)(a)(iii) of the Supreme Court Act 59 of 1959. The approach adopted by the High Court to the granting of such orders is, in my opinion, the one which this court should adopt. It is necessary to refer only to two decisions which set out the approach which I intend to adopt.

3.Corbett CJ summed up the position in **Shoba v OC, Temporary Police Camp, Wagendrift Dam** 1995 (4) SA 1 (A) at 14F-I as follows;

"An existing or concrete dispute between persons is not a prerequisite for the exercise by the Court of its jurisdiction under this subsection, though the absence of such a dispute may, depending on the circumstances, cause the Court to refuse to exercise its jurisdiction in a particular case (see *Ex Parte Nell* 1963 (1) SA 754 (A) at 759H - 760B). But because it is not the function of the Court to act as an adviser, it is a requirement of the exercise of jurisdiction under this subsection that there should be interested parties upon whom the declaratory order would be binding (*Nell's* case, at 760B - C). In Nell's case, supra at 759A - B, Steyn CJ referred with approval to the following statement by Watermeyer JA in *Durban City Council v Association of Building Societies* 1942 AD 27, at 32, with reference to the identically worded s 102 of the General Law Amendment Act 46 of 1935:

'The question whether or not an order should be made under this section has to be examined in two stages.

First the Court must be satisfied that the applicant is a person interested in an 'existing, future or contingent right or obligation', and then, if satisfied on that point, the Court must decide whether the case is a proper one for the exercise of the discretion conferred on it.'

I shall assume in applicant's favour that the subsection applies to procedural rights, as well as substantive rights. Even on that assumption I do not see how the declaration sought by the applicant could be regarded as relating to an existing, future or contingent right."

See also the instructive remarks by Gubbay CJ in **Ex Parte Chief Immigration Officer, Zimbabwe** 1994 (1) SA 370 (ZSC) at 376E-377F:

"Section 14 is in virtually identical terms to the provisions of s 19(1)(c) of the South African Supreme Court Act 59 of 1959, and its precursor, s 102 of Act 46 of 1955. It had been laid down in a long series of decisions that, in the exercise of the jurisdiction conferred, there must be an existing and concrete dispute between parties, albeit as to future or contingent rights, before the Court will act under s 102. In Ex Parte Nell 1963 (1) SA 754 (A), however, the Appellate Division, in a marked departure form this view, expressly held that an existing dispute was not a prerequisite for the exercise by the Court of its discretion to make a declaratory order. Steyn CJ pointed out that the existence of a dispute was not one of the conditions specified in s 19(1). He said at 759G - H (in translation):

'The need for such an order can pre-eminently arise where the person concerned wished to arrange his affairs in a manner which could affect other interested parties and where an uncertain legal position could be contested by one or all of them. It is more practical, and the interests of all are better served, if the legal question can be laid before a court even without there being an already existing dispute.'

Nor is it a requirement that there be an opponent. There must be interested parties upon whom a declaratory order is binding. It may determine the applicant's rights but it is not necessary that it pronounce upon the respondent's obligations. See *Nkadia v Mahlazi and Others* 1982 (2) SA 441 (T) at 449C - E; *Clarke v Hurst NO and Others* 1992 (4) SA 630 (D) at 635B - D. Thus in *Ex Parte Ginsberg* 1936 TPD 155 it was held that a declaration of rights could be granted on an *ex parte* application. The case concerned the interpretation of a statute regulating the admission of attorneys. And in *Ex Parte Prokureur - generaal, Transvaal* 1978 (4)SA 15 (T) no relief was claimed specifically against anyone, the application being brought to obtain clarification of s 75 of the Criminal Procedure Act 51 of 1977. Boshoff AJP (with whom

Nicholas and Melamet JJ concurred) said at 20B - D:

'The applicant consequently has a real interest in his rights and obligations in respect of s 75. Mr Van Dijkhorst, however, argued that there were no persons on whom the order would be binding and that for that reason this Court was therefore not authorized to make a declaratory order. In this regard he referred to cases in which declaratory orders had been applied for in private law matters. In the present application we are dealing with a public law matter in which the order will be binding on the applicant as well as magistrates and regional magistrates in respect of powers and obligations which are of material importance because they are or could be relevant in many courts practically every day.'

These remarks are especially apposite, for this application involves a matter of public and not private law. In whatever form it may take, the order will be binding on the applicant and his officers, as well as on the Courts.

It necessarily follows that upon an adoption of either approach the conclusion reached is that the applicant has *locus standi* to seek a *declarator*. But that is not sufficient. In addition, suitable circumstances must exist for the exercise of the discretion of this Court.

A powerfully persuasive factor for the exercise of the discretion in favour of the applicant is that the issue concerning the judgment of this Court is anything but abstract or purely intellectual. It is very much alive and if not resolved in these proceedings will inevitably come before this Court in the near future. It affects the applicant Ford and doubtless many other aliens similarly positioned to the O'Haras. The raising of it in legal circles has caused uncertainty and anxiety in the minds of immigration officers."

4.The backdrop to NUMSA's application for a declaratory order needs to be set out briefly. NUMSA, through its national legal officer, co-ordinates and provides legal assistance to union members. This assistance is one of the benefits which members of NUMSA enjoy. Members are, inter alia, assisted in processing dismissal disputes through conciliation and arbitration at the CCMA and the MIBC. Dismissed members are assisted in referring disputes for conciliation, and if necessary, referring disputes to or requesting arbitration and with representation during conciliation and arbitration proceedings. This assistance has included the completion and signing of forms LRA 7.11 and LRA 7.13 as well as other referral forms.

5.The need for such assistance arises for several reasons. The dismissed employee is often not in a position to sign the relevant referral form personally because he or she, upon dismissal, returns home and does not have ready access to NUMSA's offices or to the documentation which must be completed. The dismissed employee often relies upon NUMSA to act in his or her best interests in properly pursuing such a dispute

through the applicable dispute resolution mechanisms set up under the LRA.

6.NUMSA submits that there is no self-evidently compelling reason for requiring that the referral forms in question must be signed by the dismissed employee personally. Nevertheless, certain officers of the CCMA and MIBC, when presiding over conciliation and arbitration proceedings, have refused to entertain disputes about the fairness of dismissals on the basis that they lack jurisdiction in the absence of a referral form signed by the dismissed employee personally. These officials have concluded that the CCMA or MIBC lacked jurisdiction to consider the dispute. The RMIO has often succeeded in preventing a hearing of a dispute on the fairness of a dismissal on its merits by raising, successfully, precisely this point.

7.The point is raised with regularity by employer parties including the RMIO before the fora overseen by the CCMA and MIBC. There are numerous instances where the conciliation and arbitration machinery provided by the LRA has been foreclosed to dismissed employees on the basis that the relevant referral forms were signed by an official of the applicant on behalf of the dismissed employee and not by the dismissed employee personally.

8.This approach has caused severe prejudice both to NUMSA and to the employees concerned. Claims which had excellent prospects of success on the merits have been thwarted. An important function of NUMSA is providing assistance to its members to process and determine the fairness of dismissals. This function has been undermined. NUMSA has been weakened because it has been perceived as being unable to protect the rights of its members. The approach also interferes with the proper performance by NUMSA of its duties and functions as contemplated and envisaged for trade unions under the LRA.

9.NUMSA submits that the effect of a refusal by the CCMA or MIBC to conciliate or arbitrate a dismissal under s 191 is that the dispute is dismissed for lack of jurisdiction. If that dismissal is to be reversed then it is necessary for NUMSA to bring a review application before this court pursuant to section 158(1)(g) or section 145 of the LRA. The LRA does not provide a right of appeal in respect of such a decision.

10.The test on review differs from the test on appeal. Mr Spitz, who appeared for NUMSA, submitted that, at best, for a party seeking to review a finding by the CCMA or MIBC that it lacked jurisdiction because the employee has not signed the relevant referral form personally, a review court will examine whether the decision was reasonable or justifiable. It will not consider whether the decision was correct in law.

11.Mr Spitz submitted that the reason for this is that a court will seek to maintain the distinction between reviews and appeals. Consequently, it will uphold (as it has in certain cases) a decision dismissing a referral because

the dismissed employee did not sign the relevant referral form personally, on the basis that the decision in question, while not necessarily correct, was nonetheless reasonable or justifiable.

12.I am satisfied that it is appropriate that a declaratory order be made as such an order will not only determine a real uncertainty for the applicant and respondents but the labour relations community generally. However, I must point out, for reasons which follow, that I am not convinced that review proceedings could not address the problem if the correct test is applied.

13.It is convenient to deal with referrals of disputes to the CCMA before turning to referrals to bargaining councils as the legal position is not necessarily identical.

14.The CCMA is obliged by law to conciliate certain disputes which are validly and properly referred to them. See ss 133(1) and 135(1) of the LRA regarding the CCMA. A dispute concerning an alleged unfair dismissal is one of such disputes. Section 191(1) provides that: "If there is a dispute about the fairness of a dismissal, **the dismissed employee** may refer the dispute in writing within 30 days of the date of dismissal " (my emphasis) to a bargaining council or the CCMA depending on which institution has jurisdiction. Section 208 permits the Minister of Labour to make certain regulations. Regulation 11(2) of the General Administrative Regulations R 1737 of 1 November 1996 provides that a referral in terms of s 191 (1) must be in the form of annexure LRA 7.11.

15.Certain disputes including alleged unfair dismissals, mainly concerning dismissal for reasons related to conduct and capacity, may be referred to the CCMA for arbitration or the CCMA may be requested to arbitrate the matter. Generally this is regulated by ss 133(2) and 136 read with s 191(5)(a) of the LRA. A referral in terms of s 136 must be in the form of annexure LRA.7.13. See regulation 7.

16.If an employee, who has been dismissed, signs the form and it is served and filed timeously there is a proper and valid referral. A divergence of opinion has arisen in the CCMA where the dismissed employee does not personally sign form LRA 7.11 or LRA 7.13 as the case may be. This court has itself had occasion to express an opinion on the matter. I will revert to these decisions in a moment.

17.As a general rule any competent person may do any act personally, unless the law otherwise stipulates. Such a person may also authorise another competent person to act on his or her behalf unless the principal is required by law to perform the act personally. See A J Kerr **The Law of Agency** 3rd edition 55-56. W. Joubert **Lawsa** Vol 1, first reissue, para 105 states that : "By and large all types of juristic acts can be

concluded on behalf of another by a representative". Joubert provides some examples of acts which are obliged to be performed personally. For instance the Hire Purchase Act 36 of 1942 required a buyer to sign the hire purchase agreement personally. See *Western Credit Africa (Pty) Ltd v Joseph* 1962 4 SA 521 (E) for a discussion of the legislator's purpose in requiring personal signature.

18.If a document must be signed personally the legislature invariably states this in clear terms. Form LRA 7.11 makes provision for the signature of the "party referring the dispute" while form LRA 7.13 requires a signature by the person who submits the form. This does not in my view exclude signature by a duly authorised representative. A representative may be obliged to prove his or her authority. Generally a power of attorney would suffice.

19.Any competent person having the necessary legal capacity may qualify as a representative. See Joubert para 104. However, in the context of a referral to the CCMA, the representative must, in my view, be restricted to a person who has the capacity to act or represent the employee in proceedings in the CCMA. Section 135(4) provides that a party to a dispute referred to the CCMA may appear in person or, in the case of an employee, be represented by "any member, office-bearer or official of that party's registered trade union". In the case of arbitration the same right to be represented applies. In addition, a legal practitioner, as defined, may represent the employee. See s 138(4) of the LRA. However, there is no right permitting a legal practitioner to appear before the CCMA when it arbitrates dismissals arising from conduct and capacity. But on application the commissioner may permit a legal practitioner to represent an employee. See s 140(1) of the LRA.

20.It is clear that a labour consultant, who has no right of audience before a CCMA commissioner, may not sign form LRA 7.11 nor form LRA 7.13 on behalf of a dismissed employee. See the remarks of Gon AJ in **Rustenburg Platinum Mine Ltd v CCMA and others** (1998) 19 ILJ 327 (LC).

21.It follows, in my view, that a dismissed employee may validly authorise any member, office-bearer or official of that employee's registered trade union to sign form LRA 7.11 and form LRA 7.13 as these persons may appear at conciliation and arbitration proceedings on behalf of the employee. See ss 135(4) and 138(4) of the LRA.

22.I have been at pains to indicate that these are my views on the subject. What remains is to decide whether I am bound by any of the four decisions of this court on the subject. Generally I will be bound by a decision of

another member of this court which is in point unless I am satisfied that the decision is clearly wrong. See **Bargaining Council for the Clothing Industry (Natal) v Confederation of Employers of South Africa and others** (1998) 19 ILJ 1458 (LC).

23.Seady AJ in **Moolman Brothers v Gaylard NO and others** (1998) 19 ILJ 150 (LC) expressed the opinion, probably by way of an obiter dictum, that someone other than an employee could be the referring party. She said At 155 D:

"It was argued on behalf of the applicant that s 191(2) requires the 'employee' and not someone else, albeit their representative, to demonstrate that good cause exists. I do not agree with this construction which seems overly technical and does not accord with the use of the word 'employee' in subsections (1), (3) and (5) of s 191. It must be read to mean the party who refers the dispute, because the Act clearly contemplated that someone other than an employee could be the referring party, eg a trade union that brings the application on its own behalf and on behalf of its members."

24.I have mentioned that Gon AJ in the **Rustenburg Platinum** case at 322C, decided that a labour consultant could not validly sign a referral form. Referring to **Moolman's** case she said at 322C- E:

"I disagree eith the interpretation placed on s 191(1), (3) and (5) by Seady AJ. The subsections specifically refer to the 'dismissed employee' or ' the employee'. Although this may seem excessively technical, it is the wording reflected in s 191.

Insofar as s 134 of the Act allows any party to a dispute about a matter of mutual interest to refer the dispute in writing to the commission if the parties are, inter alia, one or more trade unions or one or more employees, it may be argued that the referral in terms of s 191 may be made by a trade union. It cannot be construed, however, that the referral may be made by a labour consultancy instead of the employee."

25.This however, was said in the context, not of deciding the law, but of whether the commissioner's finding on the law was reasonable and justifiable. The question whether a valid referral has been made which entitles the CCMA to conciliate a dispute is a jurisdictional fact. A jurisdictional fact is one which must objectively exist unless the statutes entitles the decision maker to make a subjective appreciation of the facts. See **Pine Town Council v President, Industrial Court** 1984 (3) SA 173 (N) at 179 B-D where it is said:

"Where the jurisdiction of a tribunal is dependent on the existence of a particular state of affairs, it cannot give itself jurisdiction by incorrectly finding that the conditions for the exercise of jurisdiction are satisfied. The conditions precedent to jurisdiction are known as "jurisdictional facts" (see *Anisminic Ltd v Foreign Compensation Commission* [1969] 2 AC 147 (HL) at 208 per Lord Wilberforce) which must objectively exist before the tribunal has power to act; consequently a determination on the jurisdictional facts is always reviewable by the Courts because in principle it is not part of the exercise of the jurisdiction but logically

prior to it. (See also *Theron en Andere v Ring van Wellington van die NG Sendingkerk in SA en Andere* 1976 (2) SA 1 (A) at 15).

26. Oosthuisen AJ in **Etschmaier v CCMA and others** (1999) 20 ILJ 144 (LC) was likewise concerned with the review of a commissioner's decision that he was not seized with jurisdiction as Form LRA 7.11 was signed by an attorney and not the employee personally. The commissioner had followed the **Rustenburg Platinum** case. The learned acting judge concluded that the commissioner's decision on this issue did not exceed his powers. The court noted that the issue concerned a jurisdictional fact. See para 45. But refrained from "passing judgement on the merits of the commissioner's decision regarding the validity of form 7.11. See para 49. It would seem that the court adopted the test of the reasonableness or justifiability of the commissioner's decision based on its appreciation of the applicability of the test enunciated in **Carephone v Marcus NO and others** (1998) 19 ILJ 1425 (LAC). The **Carephone** judgment was, however, not concerned with jurisdictional facts but rather a substantive decision of a commissioner in regard to an application for postponement of an arbitration. I am of the view that in **Etschmaier's** case the wrong approach was adopted to the question of the jurisdictional facts. I however note that Oosthuisen AJ opined, by way of an obiter dictum at para 50, that:

"Save to say that prima facie it seems an extraordinary proposition for the legislature to have intended that representatives such as legal practitioners be excluded from signing such forms on behalf of their client, or any other authorized agent on behalf of a principal."

27.Ngwenya AJ in **Pick 'n Pay Supermarkets, Northern Transvaal v Commission for Conciliation, Mediation and Arbitration and others** (2000) 21 ILJ 234 (LC) found that a trade union was permitted to sign a referral for conciliation and a request for arbitration on behalf of its member at the CCMA.

28.I conclude that my views expressed on the subjects under discussion are supported by the judgment in the **Moolman** case and the **Pick and Pay** case. To the extent that the **Rustenburg Platinum** case and **Etschmaier's** case were decided using the wrong criteria I am not bound by them.

29.The next, and more difficult, question is whether a registered trade union may sign and refer a dispute about an alleged unfair dismissal without the express and specific mandate of its member who has been dismissed?

30.It has been recognised by our courts that an employers' organisation or a trade union is entitled to litigate for the benefit of its members. See **SA Association of Municipal Employees v Minister of Labour** 1948 (1) SA 528 (T), **Marievale Consolidated Mines Ltd v President of the Industrial Court and others** 1986 (2) SA 485 (T) and **Steel and Engineering Industries Federation and others v NUMSA (1)** 1993 (4) SA 190 (T).

31.The referral of a dispute to the CCMA or a bargaining council is not a step in the course of litigation. Neither was an application for a conciliation board in terms of the Industrial Conciliation Act 36 of 1937. That Act provided in s 64 that an application for a conciliation board could be made by inter alia an employee or employees. In **OK Bazaars (1929) Ltd v Madeley NO and another** 1943 TPD 392 it was held that employees and not trade unions have the right to apply for the establishment of a conciliation board. This decision was held to be incorrect in **Amalgamated Engineering Union v Minister of Labour** 1949 (4) SA 908 (A). The Appellate Division said at 911- 913:

"In a matter such as this regard should be had to substance rather than form. A reasonable construction to be placed upon the application read in the light of sec. 35 which I shall deal with presently is that there existed a dispute between the employer and employees and that the trade union of which the employees are members makes the application on behalf of such of its members as are employed by the employer between whom and them there is a dispute as to the hours of employment. The whole idea underlying the trade union system, which system is recognised by the Industrial Conciliation Act, is that the trade union concerned should act as the spokesman of its members whenever a dispute arises between employers and employees. The Act encourages collective bargaining: hence the provisions for the registration not only of trade unions but also of employers' organisations. To insist that whenever a dispute arises between employers and employees, an individual employer or employee should set the statutory machinery in motion for the purpose of settling the dispute, would tend to defeat the object which the legislature had in mind, viz. to facilitate the settlement of disputes, for it is obvious that what the legislature had in mind was that employees should use the services of the trade union of which they are members and that employers should use the services of the employers' organisations to which they belong."

32.The ratio of the **Amalgamated Engineering** case has been ensconced in s 200 of the LRA which reads;

"(1) A registered trade union or registered employers' organisation may act in any one or more of the following

capacities in any dispute to which any of its members is a party-

(a)in its own interest;

(b)on behalf of any of its members;

(c)in the interest of any of its members.

2)A registered trade union or a registered employers' organisation is entitled to be a party to any proceedings in terms of this Act if one or more of its members is a party to those proceedings."

32.Section 200 has something of an equivalent in s 7(4)(b)(ii) of the Constitution of the Republic of South Africa of 1993 and s 38(e) of the Constitution of the Republic of South Africa of 1996.

33.Does s 191, which I have found does not require a dismissed employee to personally sign or refer a dispute but merely authorise it, preclude the operation of s 200 which, as it were, would permit a trade union to do so with the only authorisation being that the dismissed employee is a member of the trade union? The LRA must be read purposively. See s 3 of the LRA. This means, inter alia, that the statute should be read in order to achieve its purposes and that any infelicity of language should not stand in the way of this. Moreover there is room for the application of the time honoured rule of interpretation that the legislature was aware of the history of similar provisions and did not intend to depart from the interpretation determined by the courts. Moreover it may be assumed that the legislature was aware that s 191 would be interpreted in the light of the **Amalgamated Engineering** case. There is no doubt in my mind that the Act intended that an employee to be entitled to representation by a union in all the dispute resolution and collective bargaining mechanisms which are provide under the LRA.

34.Bargaining councils, subject to the requirements of accreditation with the CCMA, are obliged to attempt to conciliate and if that fails arbitrate disputes concerning alleged unfair dismissals which fall within their jurisdiction and which are referred to them. See s 191(1) and (5) of the LRA. No regulations apply in respect of referrals to bargaining councils. Section 191(1) and (5) do not, for the reasons outlined above, require the personal referral of a dispute. Clearly the referral should be in writing or, at least, reduced to writing but other than that no formalities apply. It appears that MIBC prefers, for the sake no doubt of convenience, parties to use forms LRA 7.11 and form LRA 7.13.

35.In my opinion, the application for a declaratory order should succeed. I have amended the order which NUMSA proposed to reflect the differences between the CCMA and a bargaining council. In the premises I make the following declaratory order:

1.It is declared that section 191(1) and (5) of the Labour Relations Act 66 of 1995 ("the Act") read with LRA form 7.11 entitled "Referring a Dispute to the CCMA for Conciliation" and LRA form 7.13 entitled "Request for Arbitration" does not prevent the applicant as a trade union registered in terms of the Act or any of its members, office bearers or officials from:

a)referring a dispute about the fairness of a dismissal, on behalf of the dismissed employee in terms of section 191(1)(a) of the Act to the CCMA, if no council has jurisdiction within the meaning of section 191(1)(b) of the Act, and, accordingly, that the failure of the dismissed employee to refer the dispute personally or to sign LRA form 7.11 personally does not deprive the relevant council or the CCMA of jurisdiction to hear a dispute about the fairness of the dismissal in terms of section 191(1) of the Act;

b)requesting that a dispute about the fairness of a dismissal, on behalf of the dismissed employee, be referred for arbitration before the CCMA in terms of section 191(5)(a), and, accordingly, that the failure of the dismissed employee to request the arbitration of the dispute personally or so sign LRA 7.13 personally does not deprive the CCMA of jurisdiction to arbitrate a dispute about the fairness of the dismissal in terms of section 191(5)(a) of the Act.

2.It is declared that section 191(1) and (5) of the Labour Relations Act 66 of 1995 ("the Act") does not prevent the applicant as a trade union registered in terms of the Act or any of its members, office bearers or officials from:

(a)referring a dispute about the fairness of a dismissal, on behalf of the dismissed employee, to a bargaining council, if the parties to the dispute fall within the registered scope of that council in terms of section 191(1)(a) of the Act, and, accordingly, that the failure of the dismissed employee to refer the dispute personally or to personally sign a document referring the dispute does not deprive the relevant council of jurisdiction to hear a dispute about the fairness of the dismissal in terms of section 191(1) of the Act;

(b)requesting that a dispute about the fairness of a dismissal, on behalf of the dismissed employee, be referred for arbitration before the council in terms of section 191(5)(a), and, accordingly, that the failure of the dismissed employee to request the arbitration of the dispute personally or to personally sign a document

requesting arbitration does not deprive the relevant council of jurisdiction to arbitrate a dispute about the fairness of the dismissal in terms of section 191(5)(a) of the Act.

SIGNED AND DATED AT JOHANNESBURG ON THIS 23rd DAY OF JUNE 2000.

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Landman J

13 June 2000.

2000.

: Mr Spitz instructed by Cheadle Thompson & Haysom Inc.