



MALATJI & CO
ATTORNEYS

Suite 39, 5th Floor, Katherine & West Building,
114 West Street, Sandton
Tel: 011 072 2600
Fax: 087 220 1075

Postnet Suite 104, Private Bag 9976, Sandton, 2146
Email: info@mcinc.africa
Web: www.mcinc.africa

Our Ref: T Malatji/B Masia/A Makgopa/M00159
Direct Email: tmalatji@mcinc.africa

Your Ref:
Direct Tel: 011 072 2601

Date: 30 January 2020

GROUNDUP

SUITE 08SB, 1ST FLOOR
SOUTH BLOCK, TANNERY PARK
21 BELMONT ROAD
RONDEBOSCH
CAPE TOWN

BY EMAIL: info@groundup.org.za

CC:
RAYMOND JOSEPH
rayjoe@iafrica.com

Dear Sirs,

NATIONAL LOTTERIES COMMISSION / GROUNDUP & RAYMOND JOSEPH

- 1 We refer to the above matter and confirm that we act on behalf of the Board of the National Lotteries Commission ("NLC").
- 2 We have been instructed by the NLC that Mr Raymond Joseph ("Joseph") and GroundUp (an online publication) have published articles containing the details of grant applications submitted to the NLC, the persons applying for and awarded grants, as well as the grants themselves. We have reason to believe that further similar articles will be published by Joseph and GroundUp in the future.
- 3 Copies of the published articles have been furnished to us. We list examples of the published articles in an annexure to this letter, which is marked "A".
- 4 The above articles not only have the effect of tarnishing the good name and reputation of the NLC, they also unlawfully disclose details of persons who have been awarded grants by the NLC, as well as the grants themselves.
- 5 The aforementioned conduct of Joseph and GroundUp respectively, of disclosing and publishing the details referred to, contravenes the Regulations relating to Distribution Agencies published under the Lotteries Act, 57 of 1997 (as amended), under GNR. 182 of 22 February 2001 (Government Gazette No. 22092) ("the Regulations").

IN ASSOCIATION WITH BRUGMANS INC

Directors: Tebogo Malatji B Proc LLB Sunelle Eloff B Com LLM Bonang Masia LLB Sayi Nindi LLB LLM
Practising Consultants: Molatelo Mathikithela LLB (Notary & Conveyancer) Osborne Molatudi B Proc LLB
Senior Associate: Ally Makgopa LLB
Associate: Khathutshelo Nethavhani LLB LLM
Managers: Tummy Seboko (Office Manager) Kholofelo Mokaba (Marketing Manager)

Reg No: 2018/261984/21
Vat no: 4920281922

- 6 Regulation 8 of the Regulations prohibits the disclosure of the type of information disclosed in the articles in connection with any grant application, the persons awarded grants and the grants themselves. Regulation 8 provides as follows in this regard:

“8. Security of information.—(1) Subject to the Constitution, the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) and the Protected Disclosures Act, 2000 (Act No. 26 of 2000), no person may in any way—

- (a) disclose any information in connection with any grant application or a grant itself;*
- (b) disclose the contents of a report contemplated in regulation 6 (1); or*
- (c) publish any information obtained in contravention of paragraph (a) or (b); unless—*
 - (i) ordered to do so by a court of law;*
 - (ii) making a bona fide confidential disclosure or publication to the Minister, the Public Protector, Parliament or a committee designated by Parliament, a member of the South African Police Service or the national prosecuting authority;*
 - (iii) the juristic person who made a grant application and the board consent thereto in writing prior to that disclosure or publication; or*
 - (iv) provided for in these regulations.*

(2) An agency, a person appointed to an agency or any person rendering services to an agency in whatever capacity may not in any way disclose any information in respect of or comment upon a grant application or a grant itself unless authorised thereto in writing by the Minister or the chairperson of the board.

(3) Any person who contravenes subregulation (1) or (2) shall be guilty of an offence and liable to a fine or to imprisonment or to both a fine and imprisonment.”

- 7 The publication of the aforesaid information in the articles does not fall within the permissible conditions stipulated under Regulation 8(1), especially sub-regulation (c)(i) to (iv). The publication therefore constitutes a criminal offence in terms of Regulation 8(3). The NLC is considering laying a criminal charge in this regard.
- 8 Given the provisions of Regulation 8, the NLC is also entitled to approach a court to obtain appropriate relief against Joseph and GroundUp for their conduct of publishing the aforesaid information unless the conduct ceases. Such an appropriate relief could include a declarator that the conduct is unlawful, an interdict to restrain the continuation of the conduct and costs of suit.
- 9 There have also been complaints made to the NLC by affected persons in relation to the conduct of Joseph and GroundUp.
- 10 The NLC instructs us to demand, as we hereby do, that Joseph and GroundUp:
- 10.1 forthwith cease the further publication of articles that contain the aforesaid details in contravention of Regulation 8; and

- 10.2 provide a written undertaking within 7 days of receipt of this letter that they will do so.
- 11 If Joseph and GroundUp fail or refuse to comply with the demands in paragraph 10 above, the NLC will consider instituting court proceedings for appropriate relief as stated above.
- 12 We request you to respond to this letter in writing by no later than Thursday, 6 February 2020. You are required to provide the requested undertaking and confirmation of future conduct with your response.
- 13 We are instructed to remind you of the open letter that the NLC has sent to Raymond; Groundup and the public at large and to encourage you to use the avenue created by the NLC for lawful investigations of corruption, fraud, and any other irregularities.

Yours Faithfully,

MALATJI & CO

PER: T Malatji, B Masia et A Makgopa

Transmitted electronically and thus unsigned