



MEDIA RELEASE

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HIGH COURT DISMISSED URGENT APPLICATION MADE BY RISC TECHNOLOGY INTEGRATION (PTY) LTD TO INTERDICT THE B-BBEE COMMISSION FROM PERFORMING ITS FUNCTIONS

The Broad Based Black Economic Empowerment Commission (Commission) welcomes the decision of the Gauteng Division of the High Court of South Africa (High Court) to dismiss with cost the urgent application by Risc Technology Integration (Pty) Ltd to interdict the B-BBEE Commission from implementing its decision and recommendations. This is after the company was issued with final findings in a case alleging fronting and misrepresentation of B-BBEE status on 5 February 2020.

The Commission received a complaint from Ms Winniefred Ntletleng Mashigo (Winniefred), who alleged that she was employed by Risc Technology Integration (Pty) Ltd from the 11th February 2009 to 07th January 2015 as a receptionist and that she left the company after discovering in August 2014 that she had been listed as a 33% shareholder in Risc Technology Integration (Pty) Ltd without her knowledge or consent.

Winniefred also stated that she did not receive any dividends in respect of her 33% shareholding in Risc Technology Integration (Pty) Ltd but was told that she was made shareholder to enhance the B-BBEE status of Risc Technology Integration (Pty) Ltd for the company to be able to access tenders in government entities such as Johannesburg Water.

After assessing this complaint, the Commission believed there was merit to investigate it as the allegations were pointing to fronting and misrepresentation of B-BBEE status. Risc Technology Integration (Pty) Ltd was formally notified of the complaint and given enough opportunity to respond to the allegations, and was also given another opportunity to respond to findings on 12 December 2019 before the Commission made final findings on 5 February 2020.

In the findings issued the Commission also made specific recommendations. Risc Technology Integration (Pty) Ltd asked the Commission to make a written undertaking that it will not implement its decision/ findings and the recommendations made, and the Commission did not provide such an undertaking. Risc Technology Integration (Pty) Ltd decided to approach the High Court on an urgent basis to interdict the Commission from implementing its decision/findings and recommendations made in its report.

According to Ms Moipone Kgaboesele, Executive Manager for Investigations & Enforcement, the Commission defended this matter primarily because there was no basis for the relief Risc Technology Integration (Pty) Ltd was seeking. In the view of the Commission, it was absurd for Risc Technology Integration (Pty) Ltd to attempt to interfere with the mandate and the powers of the Commission as provided for in the B-BBEE Act. Further, as Risc Technology Integration (Pty) Ltd was given more than enough time before and after findings were issued.

She further stated that “the approach of Risc Technology Integration (Pty) Ltd in this case is regrettable, especially as the Commission was open and afforded them so much time. The Commission is grateful that the High Court agreed with its views on this matter. The Commission will proceed with the necessary actions to bring this case to a logical conclusion.”

“The Commission takes every fronting allegation seriously and will not stop pursuing such matters because if true, they undermine the policies and the efforts of government to properly empower black people in this country, and further, it defrauds the tax payers and government because companies that engage in fronting black people and misrepresent their B-BBEE status get benefits that they do not deserve under false pretences”, she concluded.

The scourge of fronting is the main reason South Africa is not recording good progress on economic empowerment, as it was noted in the National Status on Broad-Based Black Economic Empowerment Report issued by the Commission. In this report, black ownership has regressed from about 32% in 2016 to about 25% in 2018, which remains a concern.

The B-BBEE Commission was established in terms of section 13B of the B-BBEE Act 53 of 2003 as amended by Act No 46 of 2013 with powers effective from 6 June 2016. The B-BBEE Commission’s mandate, amongst others, is to supervise and encourage adherence to the B-BBEE Act in the interest of the public, conduct reactive and proactive investigations and promote good governance and accountability by creating an effective and efficient environment for the promotion and implementation of the objectives of broad-based black economic empowerment.

Issued for the B-BBEE Commission:

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