



## FINDINGS AND RECOMMENDATIONS IN THE MATTER OF B-BBEE COMMISSION // STELLAR EVENTS (PTY) LTD AND OTHERS

**CASE NUMBER: 10/3/2018**

**Summary:** *Allegations - B-BBEE Commission initiated investigation pursuant to information received on possible misrepresentation of B-BBEE status by Stellar Events (Pty) Ltd – also that GNL Management CC and Finsolve Solutions CC incorrectly issued B-BBEE certificates respectively to Stellar Events (Pty) Ltd on the basis of a permanent resident who does not qualify under the definition of black people in the B-BBEE Act - Findings – misrepresentation of B-BBEE status and incorrect issuing of the B-BBEE certificates – Recommendations – remedial recommendations included training, apologies, audits, failing which referrals, including to SAPS and NPA, may be considered.*

### **1. Introduction**

- 1.1 The Broad-Based Black Economic Empowerment Commission (“B-BBEE Commission”) is established in terms of section 13B of the Broad-Based Black Economic Empowerment Act No. 53 of 2003 as amended by Broad-Based Black Economic Empowerment Act No. 46 of 2013 (“the B-BBEE Act”).
- 1.2 The B-BBEE Commission is empowered to conduct investigations on any matter arising from the application of the B-BBEE Act, including any B-BBEE initiative or a category of B-BBEE initiatives, in terms of section 13F (1) (d) and section 13J (1) of B-BBEE Act, read with regulation 15 of the Regulations Regulating the Administration and Implementation of the B-BBEE Act and the Functions of the B-BBEE Commission, 2016 (“B-BBEE Regulations”).

- 1.3 Upon investigations, the B-BBEE Commission may in terms of section 13J (7) (a) of the B-BBEE Act, read with regulation 15 (12) (c) of the B-BBEE Regulations, publish any finding or recommendation it has made in such a manner as it may deem fit.
- 1.4 This publication is therefore issued in line with these provisions of the B-BBEE Act and in the interest of the public.

## **2. *Brief description of the complaint***

- 2.1 The Minister of Trade and Industry issued the B-BBEE Regulations on 06 June 2016 which prescribe the process for complaints in terms of the B-BBEE Act. Regulation 15 specifically outlines the process from submission to resolution of a complaint, and further provides for both instances where the B-BBEE Commission responds to a complaint and where it investigates a complaint on its own initiative.
- 2.2 The B-BBEE Commission received a complaint on the 05<sup>th</sup> of October 2016 from Ms Marion Mbeiza Kafuko (Ms. Marion Mbeiza Kafuko) against Stella Events (Pty) Ltd and Ms. Julia Harmel. The allegations are summarised for the purposes of this publication as follows:
  - 2.2.1 that Ms. Harmel and Mr. Gavin Beretta facilitated the appointment and registration of Mses. Kafuko and Manzi as shareholders and directors of Stellar Events (Pty) Ltd with the view to improve the entity's B-BBEE status;
  - 2.2.2 that Ms. Harmel employed the services of Mr. Gavin Beretta who issued a B-BBEE certificate indicating that Stellar Events (Pty) Ltd is owned by 2 (two) black women with a 50/50 shareholding, notwithstanding the fact that Ms. Marion Mbeiza Kafuko does not fall within the definition of a black person under the B-BBEE Act;
  - 2.2.3 further that Mr. Grant Nathan Louw (Mr. Grant Nathan Louw) of GNL Management Services CC issued Stellar Events (Pty) Ltd with a B-BBEE level (one) 1 with 135% procurement recognition and 100% black woman ownership, albeit the fact that Ms. Marion Mbeiza Kafuko is not a South African citizen;
  - 2.2.4 that the B-BBEE level of Stellar Events (Pty) Ltd was enhanced based on the status of Ms. Marion Mbeiza Kafuko whose credentials fall short of meeting the meaning of a black person under the B-BBEE Act;

- 2.2.5 that Messrs. Louw and Beretta, Ms. Harmel, Stellar Events (Pty) Ltd and its directors, namely Asanda Mbali Rowena, Olwethu Mazolwana, Nandipha Speelman, and Yolanda Blakey have misrepresented the actual B-BBEE status of Stellar Events (Pty) Ltd;
- 2.2.6 that Mses. Kafuko and Manzi have not derived economic benefits befitting the status as shareholders and directors of Stellar Events (Pty) Ltd;
- 2.2.7 further that Mses. Kafuko and Manzi have not been involved in the core operational activities of Stellar Events (Pty) Ltd in a manner that is contrary to the objectives of the B-BBEE Act; and
- 2.2.8 that Ms. Harmel and Stellar Events (Pty) Ltd have gained access to tenders and contracts based on an invalid B-BBEE status.
- 2.3 The B-BBEE Commission followed its complaints handling processes and assessed the merit of the aforesaid complaint in terms of regulation 15 (4) (a) of the B-BBEE Regulations and resolved that the B-BBEE Commission not pursue Ms. Marion Mbeiza Kafuko's complaint further on the basis that she does not meet the definition of black people in the B-BBEE Act, does not qualify for a remedy under the B-BBEE Act and further that her matter was settled with Stella Events (Pty) Ltd. A Notice of Non-Investigation was issued to Ms Marion Mbeiza Kafuko.
- 2.4 Following the above assessment processes, the B-BBEE Commission noted B-BBEE certificates issued to Stellar Events (Pty) Ltd by GNL Management Services CC and Finsolve Solutions CC. The said B-BBEE certificates reflected Stellar Events (Pty) Ltd as a 100% black owned despite Ms. Marion Mbeiza Kafuko not being a citizen of the Republic of South Africa. It further seemed that Stellar Events (Pty) Ltd may have been awarded contracts by organs of state and public entities based on invalid B-BBEE credentials of the entity, amongst other considerations.
- 2.5 The abovementioned assessment indicated a need for the B-BBEE Commission to probe further on this matter. Therefore, on 28<sup>th</sup> of March 2018 the B-BBEE Commission initiated an investigation, against Stellar Events (Pty) Ltd, GNL Management Services CC, and Finsolve Solutions CC, pursuant to its powers in accordance with section 13F (1) (d) and section 13J

(1) of the B-BBEE Act read with regulation 15 (8) of the B-BBEE Regulations, based on information indicating conduct/practice which directly and/or indirectly undermine or frustrate the achievement of the objectives of the B-BBEE Act.

2.6 Notices to Investigate Complaint were issued to Stellar Events (Pty) Ltd, GNL Management Services CC, and Finsolve Solutions CC notifying them of the investigation and requesting their response to the allegations made therein, in line with the *audi alteram partem* rule to which they responded.

### **3. Findings of the B-BBEE Commission**

3.1 The B-BBEE Commission has acted in accordance with the B-BBEE Act read with B-BBEE Regulations and has conformed to rules relating to fair administrative justice processes applicable to investigations in its communication with Stellar Events (Pty) Ltd, GNL Management Services CC, and Finsolve Solutions CC.

3.2 The B-BBEE Commission found that Stellar Events (Pty) Ltd, GNL Management Services CC, and Finsolve Solutions CC, conducted themselves in a manner that is contrary to the objectives of the B-BBEE Act, and may constitute offences under the B-BBEE Act.

3.3 In respect of Stellar Events (Pty) Ltd, the B-BBEE Commission found that the entity engaged in practice that is contrary to the objectives of the B-BBEE Act, in that:

3.3.1 the company registration records of Stellar Events (Pty) Ltd indicate that Ms. Marion Mbeiza Kafuko and Ms. Nokuthula Manzi were added on the 28<sup>th</sup> of January 2016 while Mses Asanda Rowena Mbali, Welcome Olwethu Mazolwana, Yolanda Lisa Blakey, and Nandipha Speelman were removed on the same day. The aforesaid records further reflect a notice lodged with CIPC on the 02<sup>nd</sup> of September 2016 stating that “*remove unlawful directors incorrectly appointed: Nokuthula Manzi and Marion Mbeiza Kafuko, change director status from resign to active, unlawful resign, Asanda Rowena Mbali, Welcome Olwethu Mazolwana, Yolanda Lisa Blakey, and Nandipha Speelman*”. Ms. Julia Harmel indicated in her response to the B-BBEE Commission that Ms. Nokuthula Manzi and Ms. Marion Mbeiza Kafuko coerced Mr. Gavin Beretta of Finsolve Solutions (Pty) Ltd to “fraudulently” remove all the other directors of Stellar Events (Pty) Ltd. Same was corroborated by Mr. Gavin Beretta through communications with the B-BBEE Commission;

- 3.3.2 there was a shareholder dispute and infighting over directorship between the directors of Stellar Events, namely; Marion Mbeiza Kafuko, Nokuthula Manzi, Asanda Rowena Mbali, Welcome Olwethu Mazolwana, Yolanda Lisa Blakey, and Nandipha Speelman, conduct which the B-BBEE Commission does not have jurisdiction on. In addition, the B-BBEE Commission notes a court order in the High Court of South Africa (Western Cape Division, Cape Town) dated the 29<sup>th</sup> of May 2017 indicating settlement of disputes between the shareholders and directors of Stellar Events (Pty) Ltd;
- 3.3.3 Stellar Events (Pty) Ltd claimed 100% black ownership during the 2015/2016 and 2016/2017 verification periods based on, among others, credentials of Ms. Marion Mbeiza Kafuko who is not a citizen the Republic of South Africa, but rather a permanent resident. Noting that differences between identity numbers of citizens and permanent residents of the Republic of South Africa can be found on the last three digits of one's identity number. In respect of a South African citizen's identity number, the last three (3) digits start with the number zero (0), while a permanent resident's last three (3) digits would start with the number one (1);
- 3.3.4 therefore, Ms. Marion Mbeiza Kafuko is not black within the definition of a black person outlined in the B-BBEE Act and does not qualify for benefits under B-BBEE, given the fact that the B-BBEE Act is clear on who qualifies as a black person as it includes Africans, Coloureds and Indians who became citizens of the Republic of South Africa by naturalisation (i) before 27 April 1994; or (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date;
- 3.3.5 Stellar Events (Pty) Ltd, an Exempted Micro Enterprise, was issued with a B-BBEE certificate and charged a fee contrary to the Codes of Good Practice;
- 3.3.6 Stellar Events (Pty) Ltd, operated on unnecessary and invalid B-BBEE certificates for the verification periods of 2015-2017;
- 3.3.7 Stellar Events (Pty) Ltd unduly benefitted from contracts awarded by Transnet National Ports Authority (TNPA), and the South African Social Security Agency (SASSA) based on the company's invalid B-BBEE certificates and misrepresented B-BBEE status it being known, amongst other criteria, organs of state and public entities must consider B-BBEE. Section 10 of the B-BBEE Act states that "*every organ of state*

*and public entity must apply any relevant code of good practice issued in terms of the B-BBEE Act in, inter alia determining criteria for the awarding of incentives, grants and investment schemes in support of broad-based black economic empowerment”;*

3.3.8 Stellar Events (Pty) Ltd may have misrepresented its actual B-BBEE status, conduct which is an offence in terms of section 13O (1) (a) and (c) of the B-BBEE Act; by submitting incorrect black ownership credentials to Transnet National Ports Authority and the South African Social Security Agency;

3.3.9 the conduct of Stellar Events (Pty) Ltd, points to a serious misrepresentation of B-BBEE status in violation of the B-BBEE Act, claiming to have black ownership when that was not the case. Section 13O (1) (a) of the B-BBEE Act indicates that *“a person commits an offence if that person misrepresents or attempts to misrepresent the broad-based black economic empowerment status of an enterprise”;*

3.3.10 the conduct of Stellar Events (Pty) Ltd may amount to an offence in terms of section 13O (1) (b) which states that *“a person commits an offence if that person provides false information or misrepresents information to a B-BBEE verification professional in order to secure a particular broad-based black economic empowerment status or any benefit associated with the compliance with this Act”;* and

3.3.11 the conduct of Stellar Events (Pty) Ltd may amount to an offence in terms of section 13O (1) (c) of the B-BBEE Act which states that a person commits an offence if that person knowingly misrepresents information relevant to assessing the broad-based black economic empowerment status of an enterprise to any organ of state or public entity. The information provided to Transnet National Ports Authority and the South African Social Security Agency by Stellar Events (Pty) Ltd was invalid as it was based on a misrepresented B-BBEE status.

3.4 In respect of Finsolve Solutions CC and Mr. Gavin Beretta, the B-BBEE Commission found they engaged in conduct that is contrary to the objectives of the B-BBEE Act, in that:

3.4.1 Mr. Gavin Beretta and Finsolve Solutions CC, issued a B-BBEE certificate on the 24<sup>th</sup> of November 2015 to an Exempted Micro Enterprise named Stellar Events (Pty) Ltd, contrary to paragraphs 4.1 and 4.5 of Statement 000 of the Codes of Good Practice which state that Exempted Micro Enterprises are only required to obtain a sworn affidavit on an annual basis proving their B-BBEE status and level of ownership. Further,

that Exempted Micro Enterprises are exempted from incurring verification costs unless if that Exempted Micro Enterprise wishes to bid for contracts that are between R10 000 000, 00 (Ten Million Rand) and R50 000 000,00 (Fifty Million Rand);

- 3.4.2 Mr. Gavin Beretta and Finsolve Solutions CC, issued the above-mentioned B-BBEE certificate to Stellar Events (Pty) Ltd based on credentials of a permanent resident, Ms. Marion Mbeiza Kafuko, who does not meet the requirements to be classified as a black person under the B-BBEE Act;
- 3.4.3 even if we were to assume that B-BBEE verification of Stellar Events (Pty) Ltd was necessary (which was not in this case) Mr. Gavin Beretta and Finsolve Solutions CC, failed to use and apply professional scepticism and due diligence in performing verification function, assessing the information and issuing the apparent invalid B-BBEE certificate Stellar Events (Pty) Ltd based on credentials of a permanent resident of the Republic of South Africa, in a manner that is contrary to the objectives of the B-BBEE Act as well as the verification methodology prescribed by the verification manual;
- 3.4.4 Mr. Gavin Beretta and Finsolve Solutions CC, unduly benefitted financially through the issuing of a B-BBEE certificate to an Exempted Micro Enterprise, when such B-BBEE verification and financial charges incurred by Stellar Events (Pty) Ltd were unnecessary and not required in terms of the B-BBEE Act;
- 3.4.5 Mr. Gavin Beretta and Finsolve Solutions CC unduly benefitted through the commissioning of B-BBEE sworn affidavits of entities named Derma Dore, Montana, Drop It Timbers, Blazecor, Animania, Cape Grove Commercial Properties, amongst others, and charged them fees contrary to the Codes of Good Practice;
- 3.4.6 despite Mr. Gavin Beretta and Finsolve Solutions CC's averment that they reject applications for B-BBEE verifications when they notice that such clients are not South Africans, the B-BBEE Commission found that Mr. Gavin Beretta commissioned a B-BBEE sworn affidavit deposed to by Mr. Munyaradzi Marufu of Animania CC which declared that the entity is 100% black owned despite the fact that Mr. Munyaradzi Marufu is a permanent resident of the Republic of South Africa, not a citizen, thereby

misrepresenting the actual B-BBEE status of Animana CC, contrary to the objectives of the B-BBEE Act;

3.4.7 the conduct of Finsolve Solutions CC points to serious misrepresentation of B-BBEE status in violation of the B-BBEE Act, claiming to have black ownership when that was not the case. Section 13O (1) (a) of the B-BBEE Act indicates that “*a person commits an offence if that person misrepresents or attempts to misrepresent the broad-based black economic empowerment status of an enterprise*”; and

3.4.8 the conduct of Finsolve Solutions CC may amount to an offence in terms of section 13O (2) which states that “*a verification professional or any procurement officer or other official on an organ of state or public entity who becomes aware of the commission of, or any attempt to commit, any offence referred to in subsection (1) and fails to report it to an appropriate law enforcement agency, is guilty of an offence*”.

3.5 In respect of GNL Management Services CC and Mr. Grant Nathan Louw in his capacity as a signatory, the B-BBEE Commission finds they engaged in conduct that is contrary to the objectives of the B-BBEE Act, in that:

3.5.1 Mr. Grant Nathan Louw and GNL Management Services CC issued a B-BBEE certificate on the 21<sup>st</sup> May 2016 to an Exempted Micro Enterprise named Stellar Events (Pty) Ltd, contrary to paragraphs 4.1 and 4.5 of Statement 000 of the Codes of Good Practice state that Exempted Micro Enterprises are only required to obtain a sworn affidavit on an annual basis proving their B-BBEE status. Further, that Exempted Micro Enterprises are exempted from incurring verification costs unless if that Exempted Micro Enterprise wishes to bid for contracts that are between R10 000 000, 00 (Ten Million Rand) and R50 000 000,00 (Fifty Million Rand);

3.5.2 even if it was assumed that B-BBEE verification was necessary for Stellar Events (Pty) Ltd, Mr. Grant Nathan Louw and GNL Management Services CC issued the said B-BBEE certificate to Stellar Events (Pty) Ltd on the 21<sup>st</sup> of May 2016 without indicating that the initial B-BBEE certificate issued on the 24<sup>th</sup> of November 2015 by Mr. Gavin Beretta and Finsolve Solutions CC was withdrawn and the re-issued B-BBEE certificate further failed to indicate the date of issue, re-issue and expiry, in a

manner that is contrary to the objectives of the B-BBEE Act, and the verification procedures guiding the verification and issuing of B-BBEE certificates;

- 3.5.3 Mr. Grant Nathan Louw and GNL Management Services CC issued the abovementioned B-BBEE certificate to Stellar Events (Pty) Ltd based on credentials of a permanent resident, Ms. Marion Mbeiza Kafuko, who does not meet the requirements to be classified as a black person under the B-BBEE Act;
- 3.5.4 even if we were to assume that B-BBEE verification of Stellar Events (Pty) Ltd was necessary (which was not in this case) Mr. Grant Nathan Louw and GNL Management Services CC failed to use and apply professional scepticism and due diligence in performing verification function, assessing the information and issuing the apparent invalid B-BBEE certificate Stellar Events (Pty) Ltd based on credentials of a permanent resident of the Republic of South Africa, in a manner that is contrary to the objectives of the B-BBEE Act as well as the verification methodology prescribed by the verification manual;
- 3.5.5 Mr. Grant Nathan Louw and GNL Management Services CC unduly benefitted financially through the issuing of a B-BBEE certificate to an Exempted Micro Enterprise, when such B-BBEE verification and financial charges incurred by Stellar Events (Pty) Ltd were unnecessary and not required in terms of the B-BBEE Act;
- 3.5.6 the conduct of GNL Management Services CC, points to serious misrepresentation of B-BBEE status in violation of the B-BBEE Act, claiming to have black ownership when that was not the case. Section 130 (1) (a) of the B-BBEE Act indicates that “*a person commits an offence if that person misrepresents or attempts to misrepresent the broad-based black economic empowerment status of an enterprise*”; and
- 3.5.7 the conduct of GNL Management Services CC, may amount to an offence in terms of section 130 (2) which states that “*a verification professional or any procurement officer or other official on an organ of state or public entity who becomes aware of the commission of, or any attempt to commit, any offence referred to in subsection (1) and fails to report it to an appropriate law enforcement agency, is guilty of an offence*”.

3.6 The respondents in this matter were all notified in writing of the adverse findings for their response in line with regulation 15 (13) of the B-BBEE Regulations before the above final findings were issued by the B-BBEE Commission.

#### 4. ***Recommendations of the B-BBEE Commission***

4.1 Based on the findings, the B-BBEE Commission made remedial recommendations, which were considered appropriate to address this matter in the interest of the public:

4.1.1 that Stellar Events (Pty) Ltd, Marion Mbeiza Kafuko, Nokuthula Manzi, Asanda Mbali Rowena, Olwethu Mazolwana, Nandipha Speelman, and Yolanda Blakey, must, within **ten (10) days** of the findings submit a written undertaking under oath that they will refrain from any conduct that is contrary to the objectives of the B-BBEE Act, including purporting that Ms. Marion Mbeiza Kafuko is a black person under the B-BBEE Act, when she is clearly not;

4.1.2 that Marion Mbeiza Kafuko, Nokuthula Manzi, Asanda Mbali Rowena, Olwethu Mazolwana, Nandipha Speelman, and Yolanda Blakey must, within **sixty (60) days** of the findings, attend a training session on the B-BBEE Act with any institution accredited to provide such training in terms of the South African laws and provide proof of attendance to the B-BBEE Commission;

4.1.3 that Marion Mbeiza Kafuko, Nokuthula Manzi, Asanda Mbali Rowena, Olwethu Mazolwana, Nandipha Speelman, and Yolanda Blakey must, within **sixty (60) days** of the findings, attend a training session on corporate governance and compliance with any institution accredited to provide such training in terms of the South African laws and provide proof of attendance to the B-BBEE Commission; and

4.1.4 Stellar Events (Pty) Ltd, Marion Mbeiza Kafuko, Nokuthula Manzi, Asanda Mbali Rowena, Olwethu Mazolwana, Nandipha Speelman, and Yolanda Blakey must, within **10 (ten) days** of the findings, submit a valid B-BBEE certificate or a B-BBEE Sworn Affidavit as well as share certificates and shareholders' agreement of Stellar Events (Pty) Ltd to the B-BBEE Commission for assessment of compliance with the B-BBEE Act.

4.2 In the event that the respondents fail to accept any of the above remedial recommendations, the B-BBEE Commission may implement the following actions in accordance with the B-BBEE Act:

4.2.1 pursue criminal proceedings on the basis of misrepresentation of B-BBEE status against Stellar Events (Pty) Ltd by referring this matter to the National Prosecuting Authority in terms of 13J (5) of the B-BBEE Act, in their respective capacity as a juristic person and natural person, for contravening sections 13O (1) (a) – (c) and 13O (2) of the B-BBEE Act and any other law;

4.2.2 refer the matter to CIPC for an investigation to be conducted into the affairs of Stellar Events (Pty) Ltd and the conduct of its directors, and the extent to which their conduct could be applicable to any other entity in which the directors are shareholders/members and directors, with a view of also obtaining a declaration of them as delinquent or unfit to hold directorship or shareholding in any entity without prejudice to other remedies under the law;

4.2.3 in terms of section 13J (4) of the B-BBEE Act, consider instituting proceedings in a court to restrain any breach of the B-BBEE Act, including to obtain appropriate remedial relief against Stellar Events (Pty) Ltd and its directors; and

4.2.4 refer findings on this matter to National Treasury for the purposes of invoking the processes in the Preferential Procurement Policy Framework Regulations, as amended, relating to submission of false information in respect of the B-BBEE status and or entering, Stellar Events (Pty) Ltd in to the register of restricted suppliers and to further include them on the register of tender defaulters in terms of the provisions of section 13P so that they are barred from contracting or transacting any business with an organ of state or public entity for a period of 10 (ten) years upon conviction thereof.

4.3 The B-BBEE Commission recommended the following remedial interventions in respect of the conduct of Finsolve Solutions CC and Mr. Gavin Beretta in his capacity as a signatory:

4.3.1 that Mr. Gavin Beretta and Finsolve Solutions CC, must, within **ten (10) days** of the findings, issue a written public apology and written individual apologies to the measured entities in question, the contents of which must be approved by the

B-BBEE Commission, and must circulate the public apology to all clients in their verification part of the business, and further place the public apology on the website of Finsolve Solutions CC for a period of **thirty (30) days**;

4.3.2 that Mr. Gavin Beretta and Finsolve Solutions CC, must make a written undertaking under oath that Finsolve Solutions CC will fully abide by the B-BBEE Act and seek advice from the B-BBEE Commission when in doubt on any matter relating to B-BBEE, and such undertaking must be submitted to the B-BBEE Commission within **ten (10) days** of the findings;

4.3.3 that Finsolve Solutions CC must commission an independent audit of all B-BBEE Certificates issued in 2016 to 2017 to identify any other B-BBEE Certificates that were issued by Mr. Gavin Beretta using the approach he adopted in the issuance of the B-BBEE certificate to Stellar Events (Pty) Ltd and Exempted Micro-Enterprises, and submit a report of such independent audit to the B-BBEE Commission within **sixty (60) days** of the findings;

4.3.4 that Mr. Gavin Beretta and Finsolve Solutions CC must thereafter refund all measured entities that the independent audit will identify to have been improperly verified and issued with B-BBEE Certificates in the approach used in the issuance of the B-BBEE certificate to Stellar Events and Exempted Micro-Enterprises, and send proof of refund to the B-BBEE Commission within **thirty (30) days** of the independent audit report being submitted to and accepted by the B-BBEE Commission; and

4.3.5 Finsolve Solutions CC must ensure that Mr. Gavin Beretta attends training on corporate governance and the B-BBEE Act within **sixty (60) days** of these findings with any institution accredited to offer such training in terms of the laws of the Republic of South Africa in order to prevent the conduct from occurring in the future, and proof thereof be submitted to the B-BBEE Commission.

4.4 In the event that they fail to accept any of the above recommendations, the B-BBEE Commission may implement the following actions in accordance with the B-BBEE Act:

4.4.1 pursue criminal proceedings on the basis of misrepresentation of B-BBEE status against Finsolve Solutions CC and Mr. Gavin Beretta, by referring this matter to the National Prosecuting Authority in terms of 13J (5) of the B-BBEE Act, in their respective

capacity as a juristic person and natural person, for contravening sections 13O (1) (a) and 13O (2) (a) of the B-BBEE Act and any other law;

4.4.2 refer the matter to CIPC for an investigation to be conducted into the affairs of Finsolve Solutions CC and the conduct of its members, and the extent to which their conduct could be applicable to any other entity in which Mr. Gavin Beretta is a shareholder/member and director, with a view of also obtaining a declaration of him as delinquent or unfit to hold directorship or shareholding in any entity without prejudice to other remedies under the law;

4.4.3 refer the findings to South African Institute of Tax Professionals (SAIT) and South African Institute of Professional Accountants (SAIPA) for an investigation and appropriate remedy in respect of the conduct of Mr. Gavin Beretta and Finsolve Solutions CC; and

4.4.4 in terms of section 13J (4) of the B-BBEE Act, consider instituting proceedings in a court to restrain any breach of the B-BBEE Act, including to obtain appropriate remedial relief against, Mr. Gavin Beretta, and Finsolve Solutions CC.

4.5 The B-BBEE Commission recommended the following remedial interventions in respect of the conduct of and GNL Management Services CC and Mr. Grant Nathan Louw in his capacity as signatory:

4.5.1 that Mr. Grant Nathan Louw and GNL Management Services CC must, within **ten (10) days** of the findings, issue a written public apology to Stellar Events (Pty) Ltd, the contents of which must be approved by the B-BBEE Commission, and must place the public apology on the website of GNL Management Services CC for a period of **thirty (30) days**;

4.5.2 that Mr. Grant Nathan Louw and GNL Management Services CC must make a written undertaking under oath that GNL Management Services CC will fully abide by the B-BBEE Act and seek advice from the B-BBEE Commission when in doubt on any matter relating to B-BBEE, and such undertaking must be submitted to the B-BBEE Commission within **ten (10) days** of the findings;

- 4.5.3 that GNL Management Services CC must commission an independent audit of all B-BBEE Certificates issued in 2016 to 2017 to identify any other B-BBEE Certificates that were issued by Mr. Grant Nathan Louw using the approach he adopted in the issuance of the B-BBEE certificate to Stellar Events (Pty) Ltd and other Exempted Micro-Enterprises, and submit a report of such independent audit to the B-BBEE Commission within **sixty (60) days** of the findings;
- 4.5.4 that Mr. Grant Nathan Louw and GNL Management Services CC must thereafter refund all measured entities that the independent audit will identify to have been improperly verified and issued with B-BBEE Certificates in the approach used in the issuance of the B-BBEE certificate to Stellar Events (Pty) Ltd and other Exempted Micro-Enterprises, and send proof of refund to the B-BBEE Commission within **thirty (30) days** of the independent audit report being submitted to and accepted by the B-BBEE Commission; and
- 4.5.5 that GNL Management Services CC must ensure that Mr. Grant Nathan Louw attends training on corporate governance and the B-BBEE Act within **sixty (60) days** of these findings with any institution accredited to offer such training in terms of the laws of the Republic of South Africa in order to prevent the conduct from occurring in the future, and proof thereof be submitted to the B-BBEE Commission.
- 4.6 In the event that they fail to accept any of the above recommendations, the B-BBEE Commission may implement the following actions in accordance with the B-BBEE Act:
- 4.6.1 pursue criminal proceedings on the basis of misrepresentation of B-BBEE status against GNL Management Services CC and Mr. Grant Nathan Louw by referring this matter to the National Prosecuting Authority in terms of 13J (5) of the B-BBEE Act, in their respective capacity as a juristic person and natural person, for contravening sections 13O (1) (a) and 13O (2) (a) of the B-BBEE Act and any other law;
- 4.6.2 refer the matter to CIPC for an investigation to be conducted into the affairs of GNL Management Services CC and the conduct of its members, and the extent to which their conduct could be applicable to any other entity in which Mr. Grant Nathan Louw is a shareholder/member and director, with a view of also obtaining a declaration of him as delinquent or unfit to hold directorship or shareholding in any entity without prejudice to other remedies under the law;

- 4.6.3 refer the findings to South African Institute of Tax Professionals (SAIT) and South African Institute of Professional Accountants (SAIPA) for an investigation and appropriate remedy in respect of the conduct of Mr. Grant Nathan Louw and GNL Management Services CC; and
- 4.6.4 in terms of section 13J (4) of the B-BBEE Act, consider instituting proceedings in a court to restrain any breach of the B-BBEE Act, including to obtain appropriate remedial relief against Mr. Grant Nathan Louw and GNL Management Services CC.
- 4.6.5 Both GNL Management CC and Finsolve Solutions CC cooperated and accepted the remedial recommendations, which have since been implemented. Stellar Events (Pty) Ltd and its directors failed to respond to the remedial recommendations and the company is reflected as under final de-registration on the CIPC records.
- 4.6.6 The B-BBEE Commission has noted a pattern in shareholders and/or directors of corporations under investigation placing the corporation under de-registration or liquidation in what appears as an attempt to avoid liability for unacceptable conduct. Thus the B-BBEE Commission may pursue action against the individual directors of Stellar Events (Pty) Ltd to ensure they do not perpetuate unethical and illegal conduct of this nature in other corporations in South Africa.

## 5. ***Status of this publication***

- 5.1 This publication is prepared only for the purpose of publishing the findings and recommendations of the B-BBEE Commission on this matter in the interest of the public, but does not constitute an investigation report.

## 6. ***Conclusion***

- 6.1 The B-BBEE Commission has taken all due care in preparing this publication, and should there be any errors you wish to highlight or should you require any clarity regarding the contents of this publication, please do not hesitate to contact us immediately.

- 6.2 This publication will also be available on the website of the B-BBEE Commission from the date of its release and it will be circulated to the public through channels that the B-BBEE Commission deems fit.
- 6.3 For any queries or further clarity on this publication, kindly feel free to contact us at the following contact details:

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