

# WEBBER WENTZEL

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Mr RJ Black  
Email address: tbd

cc Moneyweb  
Ryk van Niekerk

90 Rivonia Road, Sandton  
Johannesburg, 2196  
PO Box 61771, Marshalltown  
Johannesburg, 2107, South Africa

Docex 26 Johannesburg

**T** +27 (0) 11 530 5000  
**F** +27 (0) 11 530 5111

**www.webberwentzel.com**

Your reference  
tbd

Our reference  
Caroline Theodosiou/3039598

Date  
17 August 2020

Dear Sir

## **Factual inaccuracies: Mr RJ Black criminal complaint affidavit**

1. We represent Mr JF Klopper (**our client**).
2. We are in possession of the affidavit dated 30 July 2020 which you deposed to in support of a criminal complaint against "Mr. Du Toit and/or the previous board of directors of Orthotouch" (**your affidavit**).
3. We have been instructed by our client to advise that your affidavit contains factual inaccuracies relating to him and moreover contains statements that are defamatory of him. In this regard we point out the following:
  - 3.1 In paragraph 3.3 of your affidavit you state that our client was previously a director of Orthotouch (Pty) Ltd (erroneously described in your affidavit as "Orthotouch Ltd");
  - 3.2 In paragraph 3.6 of your affidavit you state that it was discovered that certain funds were transferred by O'Donovan attorneys into the banking account of Orthotouch on 1 April 2020; and
  - 3.3 In paragraph 5, in reference to those same funds, you state that you "suspect that Mr. Du Toit and/or the previous board of directors of Orthotouch have stolen of (sic) otherwise misappropriated the funds" before demanding that the matter be criminally investigated.
4. It is clear from a reading of the foregoing that you contend our client amongst others to have acted criminally which is why you seek our client to be included in the criminal investigation which you demand in your affidavit. This statement accuses our client of theft and thus imputes expressly if not impliedly that our client is dishonest and a thief. It is a defamatory statement.

Letter To Mr RJ Black Final 12-08-20.Docx

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5. You have also stated that our client was a director of Orthotouch at all relevant times. This statement as we demonstrate below is factually inaccurate.
6. The facts which you have set out in your affidavit are inaccurate and misleading. In this respect we are instructed to advise you that it is correct that our client was previously a director of Orthotouch. However, he resigned his position as director with effect from 30 October 2018. We **enclose** a copy of the confirmation from the Commissioner of the Companies and Intellectual Properties Commission dated 30 October 2018 evidencing the removal of our client as a director of Orthotouch. We also **enclose** a SearchWorks report for Orthotouch which reflects our client among the 'category of 'Resigned Directors' and showing the resignation date as being 30 October 2018.
7. Our client was therefore not a member of the board of directors of Orthotouch when the funds (the subject of your complaint) were allegedly transferred on 1 April 2020. Indeed our client had not been a director of Orthotouch for some 17 months by the time the transfer allegedly took place.
8. It is therefore wrong to suggest in an affidavit that our client had any involvement whatsoever in the transfer of the funds.
9. As you deposed to the affidavit on oath, we trust that you will correct the version, supported by the evidence proffered with this letter. We therefore require that you submit a supplementary affidavit, recording that our client had resigned his position as director of Orthotouch with effect from 30 October 2018 and was therefore not a director of Orthotouch at the time when the transfer of funds took place. .
10. We await your confirmation that you will be preparing a supplementary affidavit correcting the position by Friday 14 August 2020 and that the supplementary affidavit be filed by 21 August 2020. We request that you provide us with a copy of the supplementary affidavit that you submit.
11. All of our client's rights are reserved including our client's rights to take such further steps as advised to protect his reputation, name and dignity, and nothing in this letter ought to be construed as a waiver thereof.

Yours sincerely

**WEBBER WENTZEL**

Caroline Theodosiou

Partner

Direct tel: +27 11 530 5376

Direct fax: +27 11 530 6376

Email: [caroline.theodosiou@webberwentzel.com](mailto:caroline.theodosiou@webberwentzel.com)