

## **Moti Group Comment**

Dear Angela Quintal

We appreciate the opportunity you have given us to comment on the ongoing matter between the Moti Group and amaBhungane.

At the outset we must emphasise that we have no issue with the media or investigative journalism. To the contrary we believe that the media and freedom of expression are fundamental aspects of a functioning democracy. One must however also remember that a democracy, protects other rights such as property and the right to privacy. It is these rights that the Moti Group is defending, and it is unfortunate that we find ourselves in a position where it is difficult to reconcile both sides of the coin.

We would like to highlight that the order the Moti Group obtained is not a gagging order against the media in general, or even against amaBhungane publishing negative articles on the Moti Group. The order must be seen in the context of recent events, and specifically a clear case of theft committed by an ex-employee of the Moti Group. A short summary of the background will explain our position in detail.

An in-house attorney submitted a doctor's note to the company which entitled him to take 10 days sick leave. While on sick leave this employee downloaded in excess of 4 000 editable documents belonging to the Moti Group onto his personal laptop. These documents included proprietary information and intellectual property which can potentially cause major monetary damages to the group if the group does not maintain the confidentiality of this proprietary information.

This employee then resigned, once he had completed the download, prior to having to return to work. The Moti Group only learned of the theft when a third party involved in civil litigation against the Moti Group submitted some of the stolen documents to court. This third party admitted in court, under oath, that our ex-employee had provided him with the documents in exchange for accommodation and "protection" and we assume other forms of compensation. These are not the actions of a whistle-blower. The employee did not to our knowledge approach the authorities or any other regulatory body, but only a known "opponent" of the company, who stood to benefit substantially from civil litigation.

The Moti Group opened a criminal docket against the employee with the South African Police Service, who investigated the matter and issued a warrant for the arrest of the thief. He was arrested at the airport when he attempted to leave South Africa. Only after his arrest did the thief attempt to claim that he is a whistle-blower. This was clearly with the intention to obstruct the criminal case and prevent further legal action against him.

Either the thief or the "opponent" provided some, or all of the stolen documents, to amaBhungane who then started sending questions to the company based on the documents. amaBhungane then published very one-sided articles with negligible inclusion of our responses. We have consistently answered the questions submitted by amaBhungane, but have repeatedly requested that they provide us with the documents in order for us to authenticate the contents. amaBhungane refused us the opportunity to do so. Some of these documents date as far back as 2014.

Our issue is with the conduct of amaBhungane in driving a defamatory narrative against the Moti Group. As an example, The Sentry published their own report in a fair and ethical manner, and while we do not agree with the content of the report, we respect their professionalism and ethics and therefore did not seek any orders against them.

Our court action is our attempt to recover confidential, private, proprietary documents and intellectual property, which we have proven to be in the possession of amaBhungane through the analysis of the metadata. We believe in the rights of journalists to publish freely and without fear, but we can also not condone a blanket “get out of jail” card for a journalist and publication with a clear narrative and vindictive motive. We do not believe that our documents are in the public interest, and clearly they were not provided by a whistle-blower. amaBhungane and News24, who support them, insist on calling the documents a “leak by a confidential source”, while we have repeatedly informed them that we are well aware of who the source is, and that the documents are stolen. They have, through their actions left us with no choice but to approach the court.

We submit that any other company in our position would also pursue legal action to avoid significant financial harm caused by the unethical conduct of journalists. Lastly, we wish to pose to you the following question – how do we undo the harm caused by amaBhungane’s actions should they be found to have been wrong after all is said and done? They do not have the financial resources to compensate us for the damage they have, and may still, cause through their actions. Will they open new bank accounts for the group? Will they repair broken commercial relationships? Investigative journalists have a valuable place in society, but they cannot wield their power in an irresponsible way, because the damage they can cause is nearly impossible to undo.

We do not now, nor have we ever intended to impede ethical journalism or legitimate whistle-blowers. The past work of amaBhungane do not absolve them of the requirement for them to behave ethically now.