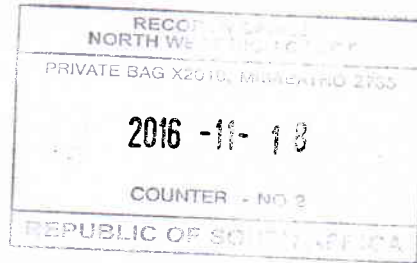


**IN THE HIGH COURT OF SOUTH AFRICA  
NORTH WEST DIVISION, MAHIKENG**

**CASE NO: M 619/16**

In the matter between:



**LONMIN LTD**

1<sup>st</sup> Applicant

**ANGLO AMERICAN PLATINUM LTD**

2<sup>nd</sup> Applicant

**THE MINISTER OF FINANCE**

3<sup>rd</sup> Applicant

**Q-LINK (PTY) LTD**

4<sup>th</sup> Applicant

and

**CG STEYN INC t/a STEYN ATTORNEYS**

1<sup>st</sup> Respondent

**EMERALD DUNES INVESTMENTS 57 CC  
t/a WOZA CASH ADVANCE, PAYDAY CASH ADVANCE**

2<sup>nd</sup> Respondent

**MIDNIGHT SPARK TRADING 400 CC**

3<sup>rd</sup> Respondent

**WEST POINT TRADING 13 BK  
t/a BAPONG CASH LOANS**

4<sup>th</sup> Respondent

**BITLINE SA 510 CC t/a LOAN TECH FINANCIAL  
SERVICES & CASH CARD SALARY ADVANCE**

5<sup>th</sup> Respondent

**HOLOGRAPHIX PROPERTIES 512 BK  
t/a CASH BOX FINANCIAL SERVICES**

6<sup>th</sup> Respondent

**GREENVILLE TRADING 7 BK  
t/a PLATINUM CASH ADVANCE, CASH TODAY**

7<sup>th</sup> Respondent



|                                                                                                                                                                             |                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| <b>D EN AG FOURIE BK</b><br><b>t/a CASH FOR CASH 1, CASH FOR CASH 2,</b><br><b>TLAYANG FINANCIAL SERVICE, CITY FINANCIAL</b><br><b>SERVICES, LETHABO FINANCIAL SERVICES</b> | 8 <sup>th</sup> Respondent  |
| <b>EASTERN BLUE INVESTMENTS 186 BK</b><br><b>t/a FAST CASH FINANCIAL SERVICES</b>                                                                                           | 9 <sup>th</sup> Respondent  |
| <b>BLUE RAINDROPS TRADING 59 CC</b><br><b>t/a READY CASH</b>                                                                                                                | 10 <sup>th</sup> Respondent |
| <b>EUNEVER TRADING 11 CC</b><br><b>t/a SEVCO FINANCE</b>                                                                                                                    | 11 <sup>th</sup> Respondent |
| <b>TUBA FINANCE CC</b>                                                                                                                                                      | 12 <sup>th</sup> Respondent |
| <b>THE MINISTER OF JUSTICE AND</b><br><b>CORRECTIONAL SERVICES</b>                                                                                                          | 13 <sup>th</sup> Respondent |
| <b>THE MINISTER OF TRADE AND INDUSTRY</b>                                                                                                                                   | 14 <sup>th</sup> Respondent |
| <b>THE NATIONAL CREDIT REGULATOR</b>                                                                                                                                        | 15 <sup>th</sup> Respondent |
| <b>ASSOCIATION FOR DEBT RECOVERY AGENTS</b>                                                                                                                                 | 16 <sup>th</sup> Respondent |
| <b>THE LAW SOCIETY FOR THE NORTHERN PROVINCE</b>                                                                                                                            | 17 <sup>th</sup> Respondent |

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**NOTICE OF MOTION**

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**BE PLEASED TO TAKE NOTICE** that **LONMIN LTD, ANGLO AMERICAN PLATINUM LTD, THE MINISTER OF FINANCE AND/OR Q-LINK (PTY)LTD** (hereinafter referred to as "*the Applicants*") will apply for the following order:

1. That the Emolument Attachment Orders, granted under the case numbers and against the debtors reflected in Annexure "**CG4**", be rescinded and set aside;
  
2. That the Emolument Attachment Orders, granted under the case numbers and against the debtors reflected in Annexure "**CG5**", be rescinded and set aside;
  
3. That the Emolument Attachment Orders, granted under the case numbers and against the debtors reflected in Annexure "**CG6**", be rescinded and set aside;
  
4. That it is declared that:
  - 4.1 Collection cost, as referred to in Section 101(1)(g), as defined in Section 1 and as applied in Section 103(5) of the National Credit Act 34 of 2005 ("*the NCA*"), includes all legal fees incurred by the credit provider to enforce the credit agreement and specifically includes fees for attorneys and advocates (where used) charged before as well as during litigation;

- 4.2 Section 103(5) of the NCA applies from the date of default to the date of collection of final payment owing, irrespective of whether judgment has been granted;
- 4.3 In order to allow and assist the Court to provide judicial oversight over the execution process and specifically the granting and the operation of Emolument Attachment Orders ("EAO" or "EAOs"), an applicant requesting an EAO must provide evidence under oath to the Court of the following:
- 4.3.1 The actual quantified collection cost (as defined in prayer 4.1 above) that had been incurred to date;
- 4.3.2 Whether the EAO will be collected by a debt collector, as defined in the Debt Collectors Act 114 of 1998 (*"the DCA"*), or an attorney;
- 4.3.3 Whether there are any compelling reasons as to why an attorney and client cost order should be granted (despite the existence of an earlier agreement) in respect of post-judgment collection cost;

- 4.3.4 Whether there are any compelling reasons as to why the Court should not limit the post-judgment cost to the fees as provided for by the DCA;
- 4.3.5 An indication as to what the monthly cost are expected to be;
- 4.3.6 An indication as to how long it will take the debtor to pay the Order having regard to:
  - 4.3.6.1 The value of the judgment debt (which amount should include interest, fees and cost);
  - 4.3.6.2 The proposed monthly payment; and
  - 4.3.6.3 The envisaged cost;
- 4.3.7 In the event of a dispute in the future relating to the reasonableness and/or quantification of collection cost, which authority will be responsible for the taxation of such cost?

- 4.3.8 The tariff in terms of which collection cost will be charged should also be provided;
- 4.4 Where the cost had not been quantified in Form 38 of the Magistrate Court Rules, then an Execution Creditor would only be entitled to collect such cost once such it has been taxed.
5. That the First Respondent be ordered to:
- 5.1 Re-calculate the outstanding amount on the EAOs reflected in Annexures "**CG4**", "**CG5**" and "**CG6**" in accordance with the provisions of this Court Order within 30 days of the granting of this order; and
- 5.2 Repay, to the particular debtor within 7 days of the recalculation, any amount found to be due and owing after such a recalculation;
6. That pending the conclusion of this application, that all payments in terms of EAOs that are reflected in Annexures "**CG4**", "**CG5**" and "**CG6**", be suspended;

7. That the First Respondent, and any party who opposes this application, be ordered to pay the cost of this application on an attorney and client scale;
8. Further and/or alternative relief;

**BE PLEASED TO TAKE NOTICE FURTHER** that the affidavit of **CLARK GARDNER**, together with annexures thereto, will be used in support of this application.

**BE PLEASED TO TAKE NOTICE** that if you intend to oppose this application you are required to:

- (a) Notify the Applicants' attorney in writing of your intention to oppose within 5 days of receipt of this application;
- (b) File an opposing affidavit, if any, within 15 days after having filed your notice of intention to oppose;
- (c) You are required to appoint in such notification of intention to oppose an address referred to in Rule 6(5)(b) at which address you will accept notice and service of all documents in these proceedings.



**BE PLEASED TO TAKE NOTICE** that the Applicant has appointed Clarke & Van Ecke Attorneys, care of **SMIT STANTON INCORPORATED** at which address the Applicants will accept service of all notices and documents in these proceedings.

**BE PLEASED TO TAKE NOTICE** that if no notice of intention to oppose is received this application will proceed on an unopposed basis on 08 December at 10h00.

**DATED** at **PRETORIA** on this 18<sup>th</sup> day of **NOVEMBER 2016**.

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**CLARKE & VAN ECKE ATTORNEYS**

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Pretoria

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Fax: 086 514 7851

E-mail: [clarkeatt@gmail.com](mailto:clarkeatt@gmail.com)

Ref.: SUM1/0035

**c/o SMIT STANTON INC ATTORNEYS**

29 Warren Street



Mahikeng

Tel: (018) 381 0180

E-mail: litigation2@smitstanton.co.za

**TO: THE REGISTRAR OF THE HIGH COURT  
MMABATHO**

**AND TO: CG STEYN INC t/a STEYN ATTORNEYS**  
First Respondent

**AND TO: EMERALD DUNES INVESTMENTS 57 CC**  
Second Respondent

**AND TO: MIDNIGHT SPARK TRADING 400 CC**  
Third Respondent

**AND TO: WEST POINT TRADING 13 CC**  
Fourth Respondent

**AND TO: BITLINE SA 510 CC**  
Fifth Respondent

**AND TO: HOLOGRAPHIX PROPERTIES 512 CC**



Sixth Respondent

**AND TO: GREENVILLE TRADING 7 CC**

Seventh Respondent

**AND TO: D EN AG FOURIE BK**

Eight Respondent

**AND TO: EASTERN BLUE INVESTMENTS 186 CC**

9<sup>th</sup> Respondent

**AND TO: BLUE RAINDROPS TRADING 59 CC**

10<sup>th</sup> Respondent

**AND TO: EUNEVER TRADING 11 CC**

11<sup>th</sup> Respondent

**AND TO: TUBA FINANCE CC**

12<sup>th</sup> Respondent

**AND TO: THE MINISTER OF JUSTICE AND CORRECTIONAL  
SERVICES**

13<sup>th</sup> Respondent



**AND TO: THE MINISTER OF TRADE AND INDUSTRY**

14<sup>th</sup> Respondent

**AND TO: THE NATIONAL CREDIT REGULATOR**

15<sup>th</sup> Respondent

**AND TO: ASSOCIATION FOR DEBT RECOVERY AGENTS**

16<sup>th</sup> Respondent

**AND TO: THE LAW SOCIETY FOR THE NORTHERN PROVINCE**

17<sup>th</sup> Respondent

