

18626/10  
Case No:2458/2009

**COMBUSTION TECHNOLOGY (PTY) LTD**

Applicant

and

**T.R. MECHANICALS 786 CC**  
Registration No. CK2001/067239/23

First Respondent

**FATIMA TALIEP**

Second Respondent

**YUMNA TALIEP**

Third Respondent

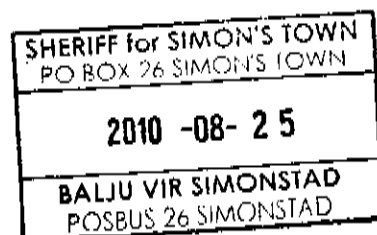
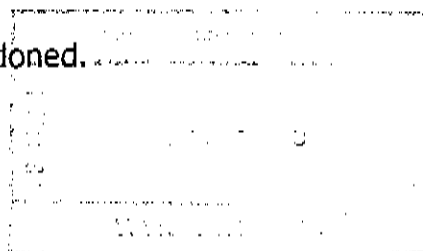
---

### NOTICE OF MOTION

---

Be pleased to take notice that an application will be made on behalf of the above named Applicant on **2<sup>nd</sup>** day of **SEPTEMBER 2010** at 10H00 or so soon thereafter as counsel for the Applicant may be heard for an order in the following terms:

1. That this application be heard as a matter of urgency and that the Applicant's failure to comply with the rules of court with regard to form, service and time periods be condoned.



2. That the members of the First Respondent being the Second and Third Respondents, be committed to jail for a period of 12 months for being in contempt of court in respect of the order granted under the above case number on 12 February 2009.

3. That Respondents pays the costs of this application jointly and severally.

The affidavit of Grant Eric Renecke annexed hereto will be used in support hereof.

**KINDLY PLACE THE MATTER ON THE ROLL FOR HEARING ACCORDINGLY.**

Date at Cape Town on this 24 day of August 2010.



**ABRAHAMS & GROSS INC**

**Per G COX**

**Attorneys for Plaintiff**

1<sup>st</sup> Floor

56 Shortmarket Street

**CAPE TOWN**

Tel: (021) 422 1323

Fax: (021) 422 1406

Ref: GC/aj/W16200

**TO: THE REGISTRAR OF THE HIGH COURT**  
CAPE TOWN

**AND TO: TR MECHANICALS 786 CC**  
1<sup>ST</sup> Respondent  
Unit 1  
1832 Capricorn Crescent  
Capricorn Park  
Muizenberg

**AND TO: TR MECHANICALS 786 CC**  
1<sup>ST</sup> Respondent  
67 Ottery Road  
Wynberg

**AND TO: FATIMA TALIEP**  
2<sup>ND</sup> Respondent  
6 Davenpoort Road  
Lotus River  
Cape Town

**AND TO: YUMNA TALIEP**  
3<sup>RD</sup> Respondent  
156 Lake Road  
Zoekoevlei  
Grassy Park  
Cape Town

**IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE HIGH COURT, CAPE TOWN)**

Case No:2458/2009

In the matter between:

**COMBUSTION TECHNOLOGY (PTY) LTD**

Applicant

and

**T.R. MECHANICALS 786 CC**  
Registration No. CK2001/067239/23

First Respondent

**FATIMA TALIEP**

Second Respondent

**YUMNA TALIEP**

Third Respondent

---

**FOUNDING AFFIDVAIT**

---

I, the undersigned,

**GRANT ERIC RENECLÉ**

do hereby make oath and state that:

  
H.76

**DEPONENT**

1. I am an adult male businessman and the managing director of the Applicant.
2. The facts stated in this affidavit are, save or otherwise appears, within my personal knowledge and are both true and correct. Where they are not within my personal knowledge I, having regard to the source thereof verily believe the veracity thereof.
3. I am duly authorised to bring this application on behalf of the Applicant.

**APPLICANT**

4. The Applicant is Combustion Technology (Pty) Limited, a company with limited liability duly incorporated in accordance with the provisions of the Companies Act 61 of 1973 and which conducts business as a distributor, installer and maintainer of industrial steam boiler systems from its principal place of business at Unit 28 E, 60 White Road, Retreat, Western Cape.

**RESPONDENTS**

5. First Respondent is TR Mechanicals 786 CC a close corporation duly incorporated in accordance with the provisions of the Close Corporations Act 69 of 1984 under registration number CK2001/067239/23 and having its

H.76 

principal place of business at Unit 1, 1832 Capricorn Crescent, Capricorn Park, Muizenberg, Western Cape, and registered address at 67 Ottery Road, Wynberg, Cape Town.

6. Second Respondent is Fatima Taliep an adult female member of the First Respondent, residing at 6 Davenport Road, Lotus River, Cape Town, Western Cape.
7. Third Respondent is Yumna Taliep an adult female member and the First Respondent, residing at 156 Lake Road, Zeekoevlei, Grassy Park, Cape Town, Western Cape.

#### **THE TENDER**

8. In early 2008 the relevant Government Department awarded First Respondent a tender in respect of the conversion of four coal fired steam boilers to natural gas firing at Johannesburg Hospital.

#### **THE AGREEMENT BETWEEN APPLICANT AND RESPONDENT**

9. I prepared the tender document submitted to the Department and Applicant as a result of its specialist expertise is responsible for performing 100% of the work to be done on the project.

1176 

10. The Applicant and the First Respondent agreed that a bank account would be opened in the name of the First Respondent with me as the sole authorised signatory in respect thereof, that all funds received from the Government Department, would be paid into the aforementioned bank account and that upon receipt of 100% of funds from the Department the First Respondent would invoice the Applicant for 5% of the funds so received.
11. First Respondent duly opened a bank account with First National Bank, Plumstead being a business cheque account with account number 62169062727.
12. In accordance with our agreement the First Respondent nominated me as the sole authorised signatory on the account.
13. Each month I would, on behalf of the First Respondent, invoice the Government Department in respect of work done and in my capacity as the sole signatory on the cheque account in the name of the First Respondent received the payments made pursuant thereto.

H.76 

14. The First Respondent however in breach of its agreement with the Applicant unilaterally instructed the bank to cancel my authority as a signatory. This happened on or about 27 January 2009. The bank refused to rectify the situation without a court order to this effect and accordingly the Applicant brought an application under the above case number in the above Honourable Court on 12 February 2009.

### **THE COURT ORDER**

15. On 12 February 2009 and pursuant to the above application Judge HJ Erasmus granted an order by agreement which provided inter alia that I was forthwith restored as the sole authorised signatory on the account and that all funds received from the Department would be paid in to the account. A copy of the order is for ease of reference annexed hereto marked "GER 1".
16. As appears from paragraph 3 of the court order the Respondent's members, the Second and the Third Respondents, were ordered to have access to the aforementioned bank account solely to view all transactions conducted therein.
17. The Second and Third Respondent's members breached the order by drawing statements on the account resulting in the account been debited with an amount of R265.50.

H.T.G. 



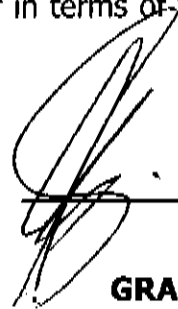
18. As appears from annexure "GER 2" hereto Second and Third Respondents members on 11 February 2009 drew a cheque on the bank account made payable to R Taliep in the amount of R40 000.00. This was done without my knowledge and authority.
19. The amounts so misappropriated have to date not being repaid into the bank account in question.
20. Furthermore annexed hereto marked "GER 3" is Respondent's invoice to the Department dated 6 October 2009 and bearing invoice number 141. The said invoice was prepared and submitted by me in terms of the agreement detailed above. It reflects an amount owing of R134 720.00 payable into the First National Bank account.
21. I have obtained from the Department a copy of an invoice number 0141 dated 13 April 2010 from the First Respondent to the Department for a different amount with the bank account given being Standard Bank, Constantia. A copy is annexed marked "GER 4".
22. The Respondents have accordingly not only breached the agreement with the Applicant but furthermore are in contempt of court as they instructed the

A handwritten signature in black ink, appearing to be 'H. Taliep', is located in the bottom right corner of the page.

Department to pay these funds into a bank account other than they that provided for in the order of court. This amount was indeed certified as correct and paid by the Department as appears from the said annexure.

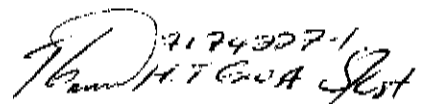
21. I annex hereto marked "GER 5" a CIPRO printout which reflects The Second and Third Respondents as the members of the First Respondent.

In the circumstance I respectfully pray for an order in terms of the Notice of Motion herein.



**GRANT ERIC RENECKE**

I hereby certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at **CAPE TOWN** on this the 24 day of August **2010**, the regulations contained in Government Notice R1258 of 21 July 1972 (as amended) and Government Notice Number R1648 of 19 August 1977 (as amended), having been complied with.



**COMMISSIONER OF OATHS**

HENRY THANDIKHAYA GWA

13 BULLSMOOR RD KIRSTENTHUR

TUKA 7945

S/est S.A.P.S

IN THE HIGH COURT OF SOUTH AFRICA  
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

"X" *[Signature]*  
12-02-2009

CASE NO: 2458/09

Cape Town, Thursday, 12 February 2009  
Before the Honourable Ms. Justice Allie *Mr. H.J. Erasmus*

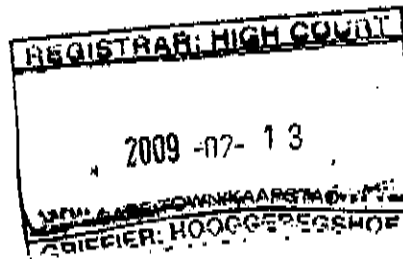
In the matter between:

**COMBUSTION TECHNOLOGY (PTY) LTD**

Applicant

and

**T.R. MECHANICALS 786 CC**  
Registration No. CK2001/067239/23



Respondent

---

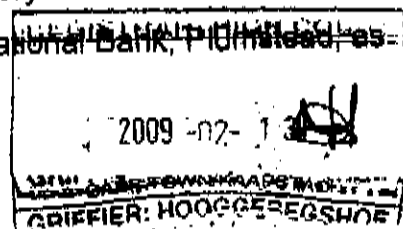
**ORDER**

---

By agreement between the parties:

**IT IS ORDERED THAT:**

1. The Applicant's managing director, Grant Eric Reneke is forthwith restored as the sole authorised signatory on account number 62169062727 (branch code: 201109), First National Bank, FNB Limited, as



*[Signature]*  
HJG

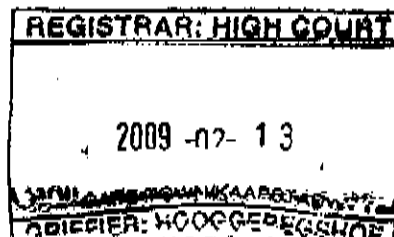
well as the linked call account in the name of Respondent with the said bank.

2. That all funds received from the employer shall be paid into the said accounts.
3. Respondent's members shall have access to the aforementioned bank accounts solely to view all transactions conducted therein.
4. The application is postponed *sine die*
5. Costs stand over for later determination.

By Order of the Court

COURT

  
**REGISTRAR**



2 Abrahams & Gross Inc, CAPE TOWN

/ec

  
H.76

u GER 2 u

Lee-Anne Weppenaar

---

From: Jillian Jewell [jillianj@rielloburners.co.za]  
Sent: 04 August 2010 03:40 PM  
To: sievers@law.co.za  
Subject: COPY OF CHEQUE  
Attachments: 62169062727\_1.tif

Hi Mr. Sievers

Herewith attached please find a copy of the cheque.

Thank you and best regards

*Jillian Jewell*

PA TO DIRECTORS

**COMBUSTION  
TECHNOLOGY**  
(PTY) LTD.

[www.combustiontechnology.co.za](http://www.combustiontechnology.co.za)

Tel +27 (21) 715 3171

Fax +27 (21) 715 6297

P.O. BOX 30047 TOKAI 7966

CAPE TOWN, SOUTH AFRICA

**Do you know that a fall in Combustion Efficiency of just 1% could represent 10% of your annual fuel bill?**

**Correct operation and regular routine maintenance is the best way to ensure that your boiler plant remains at peak efficiency**

**For further information, feel free to contact us.**

**Disclaimer:**

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

*[Handwritten signature]*  
HT6



An Authorised Financial Services  
and Credit Provider (NCRCP20)

Standard Bank

1-800-1-234567890 - a service of Standard Bank Limited

TALIEP

Yonky

Date

Datum

11/2/11

STANDARD BANK

GRASSY PARK  
SERVICE CENTRE

11-02-2009

TELLER 54

FOR TELLER 54  
02-62-09

R 240.00

No 1929/001225/00

ANICAL8 786 CC CK2001/1

Handwritten signature

1:20:1091: 6216906272711 03

Handwritten signature

## Lee-Anne Weppenaar

**From:** Grant Office [grant@rielloburners.co.za]  
**Sent:** 04 August 2010 04:58 PM  
**To:** Jeremy Simon; sievers@law.co.za  
**Subject:** Fwd: COPY OF CHEQUE

Here's the cheque they wrote out !!!

All the Best  
Grant

grant@rielloburners.co.za  
[www.combustiontechnology.co.za](http://www.combustiontechnology.co.za)

Sent from my iPhone

in forwarded message:

**From:** "Jillian Jewell" <jillianj@rielloburners.co.za>  
**Date:** 04 August 2010 15:42:37 SAST  
**To:** "Grant Renele" <grant@rielloburners.co.za>, "Michele Ronne" <michele@rielloburners.co.za>  
**Subject:** COPY OF CHEQUE

Hi

Herewith please find a copy of the cheque

Ta

JILL

PLUMSTEAD  
Pay to the order of R. TALEP  
the sum of Two hundred and forty Rands  
240.00  
Date 11/2/09  
or Bearer  
or Order  
STANDARD BANK  
GRASSY PARK  
SERVICE CENTRE  
01-00-2009  
TELLER 54  
02-62-09  
AMICALB 788 CC CK3001/047289/28  
⑈0001 ⑈201109⑈ 52469062727⑈ 01

H.T.G.





**RECEIVED**

21 APR 2010

*Rendani*

\* GER 4 11

**T.R.MECHANICALS 786 CC**

Unit 1 Deuts Building, Duetz Road  
Landsdowne.

Tel no 078 130 7708

Fax no. 0866 829 782

**INVOICE**

Date 13/04/2010

Customer

Name  
Address

Department of Infrastructure Development  
Private bag X 83  
Marshalltown  
2107

Vendor no:

1100041142

Tender no:

GC1739/10/2007

Vat no

4160267488

Invoice no:

0141

Qty	Description	Unit Price	TOTAL
1	Site Establishment Site Cleared	R 43,458.64	R 43,458.64
1	Removal of Two Scrapped Boilers and other coal equipment Removal out of 2 x boiler plant Coal mechanical devices; stokers fans, etc	R 26,351.78	R 26,351.78
1	Boiler tube welding completed, witnessed by AIA. 2 x Coal 2nd Boiler	R 70,175.43	R 70,175.43
1	2 Coal Boilers, completely modified and ready to accept New Burners. Witnessed by AIA. Boilers ready to accept gas as fuel 2nd Boiler	R 105,263.15	R 105,263.15
1	Final Testing and performance proving Training complete per tender document and training certificates issued	R 26,351.78	R 26,351.78
7	Maintenance Contract 12 Payments commencing the 1st month after final commissioning September 2009 to March 2010	R 24,000.00	R 168,000.00
1	Vo no 3 50mm 50 density lagging with 0.6mm cladding including scaffolding	R 130,578.81	R 130,578.81
1	Vo no 3 Fitting pipe to boiler no 1 and 2	R 30,215.38	R 30,215.38
	Less Corrections from previous payments	R 482,925.40	R 482,925.40
		SubTotal	R 137,868.57
		Vat	R 19,301.60
		TOTAL	R 157,170.17

Payment

(tax Rate(s))

Banking details:  
Standard Bank  
T.R.Mechanicals 786 cc  
Acc no: 071705481  
Branch code: 051001  
Branch name: Constantia

THANK YOU FOR YOUR SUPPORT!

**CERTIFIED CORRECT**

SIGNATURE

DATE: 13/04/2010

*[Signature]*  
1076

DATE: 30/06/2010  
17380537  
DEVELOPMENT  
RP0026BS  
PAYEE

BAS  
GP: INFRASTRUCTURE  
TIME: 11:09:58  
DISBURSEMENTS PER  
PAGE: 1

REPORT INTRODUCTORY

PAGE

-----  
INSTALLATION ID : GP: INFRASTRUCTURE DEVELOPMENT  
LOCATION ID : GP: INFRASTRUCTURE DEVELOPMENT  
USERID : 17380537  
REPORT REQUEST ID : 00007119  
SORT CRITERIA : PAYEE NAME  
SELECTION CRITERIA :  
1. ENTITY NUMBER : 0000004891  
2. DISB DATE FROM : 01/01/0001  
3. DISB DATE TO : 30/06/2010  
4. DBNO FROM : ALL  
5. DBNO TO : ALL  
6. PAYMENT NUMBER : ALL  
7. PAYMENT TYPE : ALL  
8. SOURCE DOCUMENT : DETAIL

DATE: 30/06/2010  
17380537  
DEVELOPMENT  
RP0026BS  
PAYEE

BAS  
GP: INFRASTRUCTURE  
TIME: 11:09:58  
DISBURSEMENTS PER  
PAGE: 2

DISBURSMNT AUTHORISED NUMBER BY	PAYMENT DATE STATUS	PAYMENT MICR PAYMENT METHOD NUMBER TYPE/NO	BENEFICIARY AMOUNT
0000003118 APSAP	11/06/2010 PAID	EBT AP	TR MECHANICALS 786 CC 157,170.17
SOURCE DOC NUMBER : NOT APPLIC		SOURCE DOC NUMBER	
: 0141	00005255	157,170.17	

AMOUNT FOR DBNO: 000003118

157,170.17

TOTAL


  
H.T.G.

-----  
-----  
CANCELLED AND REVENUED PAYMENTS:

TOTAL AMOUNT ISSUED EXCLUDING  
157,170.17

-----  
RF0026BS \*\*\*\*

\*\*\*\* END OF REPORT

  
H. TG



COMPANIES AND INTELLECTUAL  
PROPERTY REGISTRATION OFFICE

## CIPRO Company Search

Print Date: 19/08/2010 03:20:50 PM

## General Information

Search Date: 19/08/2010 03:20:42 PM  
Reference:  
Requester:  
SearchName: TR Mechanicals 786

## COMPANIES

TR MECHANICALS 786 (2001/067239/23 - In Business)

## TR MECHANICALS 786 CC

## SUMMARY

Name: TR MECHANICALS 786 CC  
Status: In Business  
Registration No: 2001/067239/23  
Registration Date: 2001/09/27  
Directors (4): TALIEP, FATIMA (Active - Member)  
TALIEP, YUMNA (Active - Member)  
TALIEP, RIDIWAN (Resigned - Member)  
TALIEP, YUMNA (Resigned - Member)  
Auditors (1): J N ROBINSON (Current)

## GENERAL

Registration No: 2001/067239/23  
Old Reg No: //23  
Enterprise Name: TR MECHANICALS 786 CC  
Registration Date: 2001/09/27  
Enterprise Type: Close Corporation  
Conv Enterprise No:  
Business Start Date: 2001/09/27  
Withdrawn Public: No  
Status: In Business  
Financial Year End: 9  
Fin Effective Date: 2001/09/27  
Registered Address: 67 OTTERTY ROAD  
WYNBERG

Postal Address: 7600  
P O BOX 18447  
WYNBERG

7824  
Region: Western Cape  
Country:  
Country of Origin:  
Tax Number: 9564175140  
Short Name:  
Translated Name:  
Status Date: 2001/09/27  
CK Date:  
CK Date Received:  
Date of Type: 2001/09/27  
Authorized Capital:  
Authorized Shares:  
Issued Capital:  
Issued Shares:  
Industry: 502 - Invalid Code

## DIRECTORS

Name	ID Number	Status	Type	App. Date	Res. Date
TALIEP, FATIMA	5707110219081	Active - Mem		2001/09/27	
	Physical Address		Postal Address		
	6 DAVENPORT ROAD		P O BOX 18447		
	LOTUS RIVER		WYNBERG		

*[Handwritten signature]*  
H.T.G.

TALIEP, YUMNA	7945 8310260132084 Active - Mem Physical Address 6 DAVENPOORT ROAD LOTUS RIVER	7824 Postal Address P O BOX 18447 WYNBERG	2003/11/27
TALIEP, RIDIWAN	7945 5803085158089 Resigned - M Physical Address 6 DAVENPOORT ROAD LOTUS RIVER	7824 Postal Address P O BOX 18447 WYNBERG	2001/09/27 2002/02/22
TALIEP, YUMNA	7945 8310260132084 Resigned - M Physical Address 6 DAVENPOORT ROAD LOTUS RIVER	7824 Postal Address P O BOX 18447 WYNBERG	2002/02/22 2003/05/26
	7945	7824	

## MEMBERS' CONTRIBUTIONS

Name	ID Number	Status	Contribution	Contribution %
TALIEP, FATIMA	5707110219081	Active - Mem	670	67
TALIEP, YUMNA	8310260132084	Active - Mem	330	33
TALIEP, RIDIWAN	5803085158089	Resigned - M	330	33
TALIEP, YUMNA	8310260132084	Resigned - M	330	33

## AUDITORS

J H ROBINSON - 1 OF 1

Name:	J H ROBINSON
Prof Code:	PA-SA
Prof No:	7497
Type:	ACC
Status:	Current
Physical Address:	

Postal Address: P O BOX 18447  
WYNBERG  
7824

Start Date:  
End Date:  
Expiry Date:  
Reg Entry Date:  
CM31 Completed:  
CM31 Received:  
Ref No:  
Withdrawn Public:  
Fine Letter:  
Act Ind Mpy No Sp:

## NO CAPITAL INFORMATION

## HISTORY

Eff. Date	Change Type
2003/11/27	Nature of Business Change (SIC Code) (50)
2003/11/27	Directors/Member Change/Secretary/Trust/Both Dir And Office (Change Record Surname/Instit : = TALIEP First Names : = FATIMA Status : = Active)
2003/11/27	Directors/Member Change/Secretary/Trust/Both Dir And Office (Add Record Surname/Instit : = TALIEP First Names : = YUMNA Status : = Active)
2003/05/26	Directors/Member Change/Secretary/Trust/Both Dir And Office (Change Record Surname/Instit : = TALIEP First Names : = FATIMA Status : = Active)
2003/05/26	Directors/Member Change/Secretary/Trust/Both Dir And Office (Change Record Surname/Instit : = TALIEP First Names : = YUMNA Status : = Resigned)
2002/02/22	Name Change (TR MECHANICALS)
2002/02/22	Directors/Member Change/Secretary/Trust/Both Dir And Office (Change Record Surname/Instit : = TALIEP First Names : = RIDIWAN Status : = Resigned)
2002/02/22	Directors/Member Change/Secretary/Trust/Both Dir And Office (Change Record Surname/Instit : = TALIEP First Names : = FATIMA Status : = Active)
2002/02/22	Directors/Member Change/Secretary/Trust/Both Dir And Office (Add Record Surname/Instit : = TALIEP First Names : = YUMNA Status : = Active)

This report contains information from public records which we do not control, and which is the responsibility of the CIPRO database administrator to maintain. We do not accept responsibility for the accuracy, implied or otherwise, of the data displayed. This report is subject to the terms and conditions.

H.T.G.

Page 3 of 3

of your contract.

  
11.76