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Date: 14 April 2022

To: GroundUp

Attention: Nathan Geffen (Editor)
Barbara Maregele (Deputy Editor)
Brent Meersman (Co-editor)
Alide Dasnois (Associate Editor)
Grant Stent (Reporter)

Per email: info@groundup.org.za

Dear Sirs,

**RE: OUR CLIENT: YASHODA RAM /
IN RE: DEFAMATORY STATEMENTS MADE AGAINST YASHODA RAM IN AN
ARTICLE PUBLISHED ON THE GROUNDUP WEBSITE**

1. We confirm that we act for and on behalf of Yashoda Ram (“our client”).
2. We refer to the article dated 1 April 2022 on the GroundUp website, titled: “*Yashoda Ram, NUMSA’s insurance company’s curious curator*” (“the article”). The article was authored and/or published by Mr James Stent, a copy of which is attached hereto and marked as **Annexure “A”**.

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3. In the article, you make various defamatory statements against our client. We do not intend to deal with each and every inaccurate and defamatory statement and we reserve our client's rights to deal with same in the appropriate forum and at the appropriate time.
4. Notwithstanding this, we first place on record some general, yet concerning, observations as set out more fully hereunder:
 - 4.1 At the outset, it is important to understand the tone set, and intimations made, by the article's headline and subheadings, and the implications thereof on our client's reputation and public image, notwithstanding the judgment handed down by Justice Denise Fisher and the subsequent arguments before Court. In this regard, we place on record that the article is not a true reflection of the matter.
 - 4.2 The article's headline and subheadings, which are teeming with biased judgment, inaccuracies and allegations, immediately bring our client's name in disrepute. In summation of these allegations, the headline and subheading states that:
 - 4.2.1 Our client is a "*curious curator*"; and
 - 4.2.2 Our client "*suddenly change[d] her mind about 3Sixty Life's future*".
 - 4.3 It is important to highlight that, properly considered, our client did not "*suddenly change her mind*" about the solvency of 3Sixty Life ("3Sixty"). Rather, and as fully set out in our client's papers before Court, which you reasonably ought to have considered before publishing the article, our client as curator relied on numerous expert reports which collectively questioned a conclusion of insolvency.

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- 4.4 Notwithstanding this, and as is purposed by an effective headline and subheading, the article creates an immediate impression in the reader's mind that our client's findings are questionable and were taken in bad faith or with some nefarious intent. This sets the tone for the remainder of the article, making little to no mention of our client's version, which version is easily accessible as public documents before the Court.
- 4.5 We pause here to note that the article reads as if it were directed from the regulatory body's own mouth and blatantly flouts the *audi alterum partem* rule. Strangely, and perhaps the most prevalent indicator of your biased and defamatory reporting against our client in respect of the matter, the article references only a single aspect of our client's version, despite her name appearing in the headline. Instead, it is quick to reference (and goes so far as to attach a hyperlink) to aspects of the PA's court papers. It further eloquently references the PA's version to the alleged misrepresentations relating to our client's qualifications, together with BDO's version. The article even references 3Sixty's version.
- 4.6 However, at no point did you attempt to contact our client for comment or provide her with the opportunity to place her version on record, notwithstanding the damage caused to our client's reputation as a direct result of the defamatory statements and injurious (and inaccurate) conclusions drawn by the article. This fact alone is an infringement of our client's rights to be heard and your obligations as an "independent" news agency (as your website so proudly pronounces) in terms of the Code of Ethics and Conduct for South African Print and Online Media ("the Code of Conduct"). The further breaches of the Code of Conduct will be dealt with hereunder.

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4.7 In addition to the innuendos set in the introductory headlines, the general tone and biased conclusions drawn by the article lead to a breakdown of trust between the general public and our client, resulting in severe reputational damage to her public name and image, and is defamatory in nature. In particular, the article states, *inter alia*, that:

“The provisional curator of NUMSA’s insurer 3Sixty Life, Yashoda Ram, had been running the insurer’s business for two months when she suddenly changed her mind about its future.”

“But investigations prompted by Msibi’s complaints showed that she had misled the Prudential Authority about her qualifications.”

“But in the meantime she completed her report, in which she suddenly said she didn’t think the company should have been placed under curatorship at all.”

“But Ram did not hand over report writing duties to her colleagues. Instead she completed the report without discussing it with the BDO team that had been working on the curatorship alongside her, and without considering their inputs. On 21 February, Ram released her interim report which included no input from BDO’s teams of actuaries, accountants, or lawyers.”

“According to a 4 March lawyers’ letter from BDO to Ram, Ram also forbade 3Sixty Life employees from contacting any member of the BDO team.”

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“She demanded that the team from BDO that was working on the curatorship be replaced.”

“The team continued to try to work with her, to no avail, but without success. The terms of her suspension allowed her to continue to freely contact BDO employees, work from BDO ’ s offices, and access BDO ’ s internal computer systems. She also had a direct line to BDO ’ s CEO, Mark Stewart, if she encountered any obstacles to discharging her work as curator.”

“Ram had used her company email to forward a number of confidential documents related to the curatorship to Reddy between 1 and 11 February. These emails all related to malfeasance at 3Sixty Life that Ram had been discovering during her term as curator. The picture she painted then was of a company in crisis.”

“Ranti Mothapo of Matlotlo Group, 3Sixty Life’s First Line Actuarial Function, corresponded with BDO actuary Tinashe Mashoko, and strongly suggested that Mothapo would report Ram’s breaches of ASSA code.”

- 5 By publishing the defamatory statements and injurious falsehoods against our client, you intended the following defamatory innuendos, *inter alia*:
- 5.1 Our client has actively and intentionally misrepresented her qualifications;
 - 5.2 Our client allowed external and nefarious intentions to influence her role and obligations as the court appointed curator of 3Sixty Life;
 - 5.3 Our client has misled a court of law, and thereby sought to perjure herself;

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- 5.4 Our client engages in criminal activity in order to promote self-gain;
 - 5.5 Our client is untrustworthy;
 - 5.6 Our client is not qualified for the position for which she was appointed by a court of law; and
 - 5.7 Our client has engaged in corrupt and fraudulent business conduct by providing incorrect information pertaining to her qualifications and/or membership with the relevant regulatory bodies.
- 6 The allegations that have been made against our client are vehemently denied with the contempt that they deserve – which denial has been recorded in official court papers deposited to by our client as aforesaid.
- 7 In addition, the defamatory statements and injurious falsehoods are in contravention of the Code of Conduct in that your conduct in publishing the article is illustrative of a failure to exercise reasonable care and consideration in matters involving reputation. Had you undertaken the simple exercise of verifying the PA's version against that of our client, you would have been placed in a reasonable position to record the matter accurately and in an impartial manner. Notwithstanding this, you failed or, at worse, refused to exercise the necessary care required by the Code of Conduct to which you are bound.
- 8 What is more, we note that GroundUp posits itself as a news agency that is "independent" and "*value(s) high quality, ethical journalism*". Notwithstanding this, you have failed to adhere to the following basic principles set out in the Code of Conduct, *inter alia*, to:

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- 8.1 Take care to report news truthfully, accurately and fairly;
 - 8.2 Present news in context and in a balanced manner, without any intentional or negligent departure from the facts whether by distortion, exaggeration, material omissions, or summarization;
 - 8.3 Present only what may reasonably be true as fact; opinions, allegations, rumours or suppositions shall be presented clearly as such; and
 - 8.4 Seek, if practicable, the views of the subject of critical reportage in advance of publication, except when they might be prevented from reporting, or evidence destroyed, or sources intimidated. Such a subject should be afforded reasonable time to respond; if unable to obtain comment, this shall be stated.
- 9 Accordingly, we record that the article and your conduct of publishing the article recorded above, constitutes defamatory statements and injurious falsehoods. In the premises, we have been instructed to demand from you, which we hereby do, to comply with the following:
- 9.1 Delete the article in its entirety;
 - 9.2 Provide our client with a written retraction and public apology on the GroundUp website and elsewhere; and
 - 9.3 Provide our office with a written undertaking that you will immediately cease and desist from making any further false and defamatory statements concerning our client.

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- 10 In the event that you fail to comply with our client's demands as set out in paragraph 9 herein, by **18:00 on Friday, 15 April 2022**, our client reserves her rights to proceed with an urgent application to the High Court of the Republic of South Africa for an order interdicting you from continuing with the broadcasting of the article. Furthermore, our client reserves the right to claim any and all damages suffered as a result of the aforementioned defamatory statements and injurious falsehoods. It goes without saying that our client shall seek a costs order against you in this regard.
- 11 We await your urgent response hereto; however, should we not hear from you please note that we will serve the court papers on your email address and/or the sheriff will serve same on your person.
- 12 What is contained above is not exhaustive of our client's contentions or of what transpired. Our failure to deal in any further detail with the matter at this time should not be construed as a waiver of any of our client's rights. Our client reserves the right to deal more fully with the matter at a later stage and in the appropriate forum should this become necessary.

Yours Faithfully,
(unsigned as sent electronically)
Kern, Armstrong and Du Plessis Incorporated
Per: G Armstrong
greg@kernattorneys.co.za

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