

75/x / Jul 08



**TUGENDHAFT WAPNICK BANCHETTI  
AND PARTNERS**

Competition Tribunal  
Building C  
Mapungubwe Building  
77 Meintjies Street  
Sunnyside  
Pretoria

Our Ref: S Mayet/L02

Your Ref:

Per Hand

Date: 30 June 2008

Dear Sirs

**ABANDONMENT OF INTERMEDIATE MERGER – CASE NUMBER 2008MAY3744**

Please find enclosed the original CT6 in the abovementioned matter.

We trust that this meets with your satisfaction. Should you require any further information please feel free to contact the writer.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Safeera Mayet'.

**SAFEERA MAYET  
TWB – TUGENDHAFT WAPNICK BANCHETTI AND PARTNERS**

**ATTORNEYS**

Tel +27 11 291 5000 Fax +27 11 884 7949 Website [www.twb.co.za](http://www.twb.co.za)  
20th Floor Sandton City Office Towers 5th Street Sandown 2196 South Africa PO Box 786728 Sandton 2146 Docex 19 Sandton  
Partners O Tugendhaft S Wapnick ZEE Banchetti A Chaves da Silva L Smith T Pollak R Kantor S Mayet  
Associates D De Canha J Ravjee M Scott A Koen K Reddy  
Email: [safeera@twb.co.za](mailto:safeera@twb.co.za)





75/x/50108

# competitiontribunal south africa

## Form CT 6

## Notice of Motion

### About this Form

This Form is issued in terms of the Competition Tribunal Rules.

Please indicate in the space provided the nature of your motion, including specific reference to the relevant section of the Act or Tribunal Rules.

If this Notice of Motion concerns a matter being brought in terms of Division E of Part 4 of the Competition Tribunal Rules, it must comply with the requirements of Competition Tribunal Rule 42(3).

**Date:** 26-Jun-2008 **File #** 2008MAY3744

**To:** The registrar of the Competition Tribunal

### Concerning the matter between:

LARITZA INVESTMENTS 190 (PTY) LIMITED (Applicant)

and IMPERIAL MCCARTHY (PTY) LIMITED (Respondent)

Take notice that the PARTIES intends to apply to the Tribunal for the following order:

THE REMISSION OF THE MERGER FILING FEE OF R75 000 IN RESEPECT OF THE ABOVEMNETIONED MERGER.

THE AFFIDAVIT OF MARCEL SWANEPOEL AND SUPPORTING AFFIDAVIT OF SAFEERA MAYET IS ATTACHED HERETO IN SUPPORT OF THE APPLICATION.

### Name and Title of person authorised to sign:

MARCEL SWANEPOEL - DIRECTOR

### Authorised Signature:

### Date:

26-Jun-2008

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X24  
Sunnyside  
0132  
Republic of South Africa  
tel: 27 12 394 3300  
fax: 27 12 394 0169  
e-mail: ctsa@comptrib.co.za

For Office Use Only:

Tribunal file number:

Date filed:

**IN THE COMPETITION TRIBUNAL**

**CASE NO. : 2008MAY3744**

In the matter between :-

**LARITZA INVESTMENTS 109 (PROPRIETARY) LIMITED**

and

**IMPERIAL MCCARTHY (PROPRIETARY) LIMITED**

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**AFFIDAVIT**

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I, the undersigned,

**MARCEL SWANEPOEL**

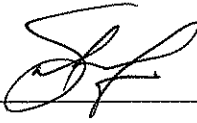
do hereby make oath and state that:

1. I am an adult male and director of Laritza Investments 109 (Proprietary) Limited ("Laritza").
2. Save where otherwise stated or where the converse appears from the context, all facts stated herein are within my own personal knowledge and are true and correct.
3. On 20 May 2008 a merger application was lodged with the Competition Commission by Safeera Mayet, an attorney practising as a partner at Tugendhaft Wapnich Banchetti and Partners ("Ms Mayet"). A copy of the acknowledge of receipt is attached as Annexure "A" hereto.
4. The merger was in respect of the acquisition by Laritza of the Nissan Cape Schus Nissan Parrow and Schus Nissan Cape Gate from Imperial Mccarthy (Proprietary) Limited ("Imperial McCarthy"), as a going concern, which

dealerships sell Nissan motor vehicles.

5. In terms of the draft sale of business agreement there were various conditions precedent to be fulfilled.
6. Laritza was however unable to fund the acquisition as contemplated in paragraph 4 and notified Imperial McCarthy of its inability to procure the necessary funding.
7. The parties entered into negotiations in an attempt to resolve the matter but could not procure the necessary funding including the floor plan required to operate the Schus Nissan Parrow and Schus Nissan Cape Gate dealerships.
8. We informed Ms Mayet of the breakdown in the negotiations and requested that the merger be abandoned.
9. Ms Mayet contacted the Themba Mahlangu at the Competition Commission around the end of May 2008 to inform the Competition Commission that the parties have encountered various obstacles and were in the process of trying to resolve the matter and that the investigation should be placed on hold.
10. During June 2008 Ms Mayet has further discussions with the Competition Commission and on 20 June 2008, I signed the Form CC6 to abandon the merger, which was submitted to the Competition Commission. A copy of the CC6 is attached as Annexure "B" hereto.
11. Ms Mayet and the Competition Commission then entered into negotiations regarding the refund of the merger filing fee. They agreed that the full filing fee of R75 000 would be refunded and application to the Competition Tribunal would be made in this regard.
12. WHEREFORE I humbly pray for the relief set out in the Notice of Motion.

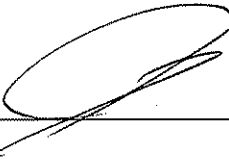




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Deponent

THUS SIGNED and SWORN to at Johannesburg on this the 26 day of JUNE 2008, the deponent having acknowledged that he knows and understands the contents of this affidavit, that the contents hereof are true and correct, and that he has no objection to taking the prescribed oath and regards it as binding upon his conscience.



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COMMISSIONER OF OATHS  
FULL NAMES:  
ADDRESS:  
OFFICE/DESIGNATION:

RISCHARD CASSIM  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY S.A.  
7th FLOOR  
SANDTON OFFICE TOWER  
SANDTON CITY, SANDTON, JHB

Annexure "A"



competition commission  
south africa

### ACKNOWLEDGEMENT OF RECEIPT

CASE NUMBER: 2008May3744

Name of Applicant:

Laritza Investments 190 Pty  
Ltd/Imperial Mccarthy T/A

Contact Person:

Ms Safeera Mayet

Postal Address:

P O Box 786728  
Sandton  
2146

Office

011 291 5309

Fax

011 884 7949

E-mail

safeera@twb.co.za

Nature of Submission :

Intermediate Merger

Method of Submission:

By-Hand

Delivered by:

Name :

Signature:

Registry Signature:

Date Stamp :

THE COMPETITION COMMISSION  
Private Bag X23 Lynnwood Ridge 0040  
  
20May 08

**NB: Case number must be quoted for the case to be processed by the Commission**



# competition commission south africa

## Form CC 6

## Notice of Abandoned Merger

To: The Competition Commission

From:

(Name of primary acquiring firm:)

LAEITZA INVESTMENTS 190  
 (PROPRIETARY) LIMITED

(Name and file number of merger:)

2008MAY3744

Take notice that the above named firm -

- (a) has abandoned the intended merger previously notified under the file number shown above; and
- (b) has no intention of taking any further steps to implement that intended merger.

Name and Title of Person authorised to sign:

Authorised Signature:

Date:

20/06/08

### Contacting the Commission

The Competition Commission  
 1701 Market Square  
 Sandton, Johannesburg  
 2008  
 Phone: 011 234 2230  
 011 234 2231  
 011 234 2232  
 Fax: 011 234 2233  
 Email: [cc@compcom.co.za](mailto:cc@compcom.co.za)

For Office Use Only: Commission file number: \_\_\_\_\_ Date filed: \_\_\_\_\_

**IN THE COMPETITION TRIBUNAL**

**CASE NO. : 2008MAY3744**

In the matter between :-

**LARITZA INVESTMENTS 109 (PROPRIETARY) LIMITED**

and

**IMPERIAL MCCARTHY (PROPRIETARY) LIMITED**

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**CONFIRMATORY AFFIDAVIT**

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I, the undersigned,

**SAFEERA MAYET**

do hereby make oath and state that:

1. I am an attorney of the High Court of South Africa, duly admitted as such in the Transvaal Provincial Division and practising together with others as a partner of Tugendhaft Wapnick and Partners, which firm was responsible for the drafting and lodging of the aforesaid merger application.
2. Save where otherwise indicated, the facts herein stated are within my own knowledge and are true and correct.
3. I confirm that I have read the Affidavit of Mr Marcel Swanepoel and confirm the contents thereof insofar as same relate to or concern myself and/or Tugendhaft Wapnick and Partners.



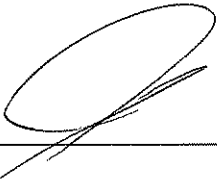




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Deponent

THUS SIGNED and SWORN to at Johannesburg on this the 26<sup>th</sup> day of JUNE 2008, the deponent having acknowledged that he knows and understands the contents of this affidavit, that the contents hereof are true and correct, and that he has no objection to taking the prescribed oath and regards it as binding upon his conscience.



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COMMISSIONER OF OATHS  
FULL NAMES:  
ADDRESS:  
OFFICE/DESIGNATION:

**RISCHARD CASSIM  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY S.A.  
7<sup>th</sup> FLOOR  
SANDTON OFFICE TOWER  
SANDTON CITY, SANDTON, JHB**

