

Part One: The lawyer people trusted

A legal consultant who claims that he survived an assassination attempt on a lonely stretch of the N7 highway between Cape Town and Springbok last month has come to the *Mail & Guardian* with an incredible story.

Gawie Hendriksz says he knows how politically connected mining company Imperial Crown Trading 289 (ICT) acquired a multibillion-rand stake in the Sishen mine in the Northern Cape during the long weekend of May 2009.

ICT provisionally acquired a 21.4% stake in Sishen when it beat Anglo American's subsidiary Kumba Iron Ore to the rights for what both companies believed was a vacant stake in one of the world's largest opencast iron ore mines.

ICT and Kumba have spent millions in court sparring over the allocation of the 21.4% stake, and have laid criminal charges against one another. (see "Sishen - the story so far")

Hendriksz, who since July 2011 has been under contract to a risk consultancy acting for Kumba, makes the following key allegations:

- ICT co-founder and chief executive Phemelo Sehunelo paid a bribe of R250 000 to Charles Lerumo, the department of mineral resources's Northern Cape assistant director of mineral laws to facilitate the acceptance of ICT's application;

- Lerumo kept R150 000 and passed R100 000 on to Thozama Basi, the department's Northern Cape assistant director of social and labour plans;

- Basi, who took possession of Kumba's application on April 30 2009, made copies of documents such as title deeds from this application during the subsequent long weekend. She then handed these copies to Sehunelo; and

- ICT's application was incomplete and unsigned at the time it was purportedly captured on the department's computer systems on May 4 2009. Lerumo saw to the capturing

of ICT's application on May 4, even though the ICT application was in fact only signed on May 5 that year. This is significant, as Kumba's application was also registered on May 4 and legislation promotes a "first past the post" approach to competing applications.

Basi chose not to respond to detailed allegations put to her by the *M&G*. Lerumo would not even entertain the questions.

'Scurrilous liar'

Responding on behalf of Sehunelo and ICT, attorney Ronnie Mendelow described Hendriksz as "nothing but a scurrilous liar seeking to peddle 'information' (in actual fact disinformation) to the highest bidder".

Mendelow said that during a taped interview with ICT's lawyers on November 2 2010, Hendriksz had offered a different version, in which Kumba had in fact bribed the department of mineral resources officials.

Mendelow said: "Suffice it to say that these allegations were all without any foundation whatsoever, and that the allegations regarding paying off of advocate Charlie Lerumo by our client, advocate Sehunelo are completely false and without any foundation whatsoever."

Mendelow said that on his own version, Hendriksz had attempted to "peddle his information" to Kumba and ArcelorMittal. "Mr Gawie Hendriksz's alleged desire ... to make the facts known before somebody succeeds in killing him, is a conjured up story," Mendelow said.

Arcelor potentially lost the 21.4% stake in Sishen it previously held by failing to convert its rights in terms of new legislation by the end of April 2009. Before the *M&G* contacted Mendelow, Hendriksz had disclosed his interaction with ICT to the newspaper, claiming that he had "played along" with the latter as part of his own investigation.

Hendriksz had also disclosed his interactions with both Kumba and Arcelor to the *M&G*.

The DMR also dismissed Hendriksz as "an information peddler", claiming he had previously approached the department to offer his assistance in the matter. The department rejected his approach.

While Hendriksz's allegations have not been tested in court, he has made a detailed affidavit to the Hawks investigator probing ICT's conduct. No assessment of his credibility is complete without considering his role in the successful investigation of another case involving the Kimberley department of mineral resources office — the so-called Saltworks case.

The Saltworks case

In this matter, Hendriksz was hired by Jalie du Toit, owner of Saamwerk Soutwerke, which had been on the brink of acquiring a mining right from the department to extract salt from a pan near Upington in 2006 when a rival mining company, Suid-Afrikaanse Soutwerke (SA Soutwerke), produced what it claimed was a valid permit to mine the same saltpan.

Du Toit's suspicions were raised because two well-connected Northern Cape politicians — ANC regional chairperson John Block and Upington mayor Gift van Staden — had become directors of SA Soutwerke four months earlier. Du Toit hired Hendriksz to investigate.

Hendriksz made it his business to find out how mineral rights were awarded, and by whom, in the office of the department of mineral resources in Kimberley.

"In the course of my Soutwerke investigation, I was in the department office in Kimberley every second or third day until they got used to me," he told the *M&G*.

By May 2009, when the 21.4% stake in Sishen became vacant, sparking the scramble between Kumba and ICT, Hendriksz said his investigations into SA Soutwerke's permit had "intensified".

"I was regularly attending at the Kimberley office of the department

and was meeting several officials on a regular basis ... [deputy director] Hennie Jansen van Rensburg and [assistant director of mineral laws] Charles Lerumo in particular.

"I sought not only to obtain information from them, but also, unknown to them, to cross-check information provided by one of them with the other. I avoided consulting them jointly," Hendriksz said.

In May 2009, Jansen Van Rensburg was temporarily heading the regional office in Kimberley because his superior, Pieter Swart, had taken leave.

On May 18, Hendriksz said Jansen Van Rensburg called him into his office and said: "Here is a file on my table. I've got exactly the same case and problem with Kumba and ICT like in your matter with SA Soutwerke. The same what happened on your side. The permit is fraudulent, with high-up cover-up."

At another meeting a few days later, on May 21, Jansen van Rensburg told Hendriksz what he meant by "high up". "He said to me: "There is also involvement on the political level. There's someone called Jagdish Parekh who also has a lot of influence [in ICT]. You'll see, sooner or later — like John Block [with SA Soutwerke] — he'll be brought in as a partner for ICT."

ICT lawyer Mendelow, responding on behalf of Parekh, said Parekh "had nothing whatsoever to do with ICT in May 2009 and thereafter when our client's application for the prospecting right was granted. He first became involved in ICT well after the prospecting right had been granted."

Hendriksz said that at another meeting on June 10, Jansen Van Rensburg told him that his superior, "Swart, had instructed him, during the course of April 2009, that he [Jansen Van Rensburg] was to take over as acting regional manager of the Northern Cape regional office for the month of May 2009.

"Jansen Van Rensburg was to prepare for the lodging of a prospecting right application by ICT during this

period, and was to ensure that this application was accepted, regardless of any irregularities with it," he added. The instruction had apparently come from one of Swart's superiors in Pretoria.

Swart denied this, saying: "I've never given Mr Van Rensburg the instruction as set out in your letter. My holiday arrangements [in which Jansen Van Rensburg would act] were made a considerable time before the end of April 2009 [when the Sishen applications were lodged]."

As Jansen van Rensburg has since died (see "The mysterious death of a lonely official", Page 8), Hendriksz's recollection of their encounters cannot be confirmed.

In the interim, the salt mine dispute Hendriksz had been investigating reached its conclusion, providing an independent test of the credibility of both Hendriksz and Swart.

The case, heard in September 2009 in the Northern Cape High Court, turned on allegations that the mining permit on which SA Soutwerke relied — produced by the ANC's Block at a meeting with the DMR — was a forgery.

Before the hearing department of mineral resources officials — including Swart — gave sworn statements supporting Block's SA Soutwerke and suggesting the fake permit was legitimate.

By the time Hendriksz came to testify, Swart's statement had been mysteriously withdrawn and Hendriksz's evidence of manipulation and double-dealing by the department was hardly challenged in cross-examination.

In his ruling Judge Hennie Lacock found that SA Soutwerke's permit was a fake. The judge made no mention of Hendriksz, but Jasper Tredoux, Saamwerk Soutwerke's advocate, said: "Gawie was a truthful witness ... But his greatest importance was behind the scenes.

"He helped unravel everything that happened in the department of minerals, who did what with regard to the mining licence applications."