WERKSMANS
ATTORNEYS

Bernard Hotz

HEAD OF BUSINESS CRIMES & INVESTIGATIONS

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Bernard Hotz is the Head of the Business Crimes & Investigations Practice Area. A highly experienced commercial litigator, he is also extremely versatile being active in other practice areas at the firm namely Arbitration and Dispute Resolution. Bernard specialises in all aspects of general commercial litigation. This includes corporate fraud/business crimes; insurance and banking litigation; stock exchange-related litigation; and unlawful competition matters such as restraints of trade and Anton Piller orders. He also deals with various areas of intellectual property litigation; trademark and copyright enforcement; media law disputes; and administrative law. Bernard sits as a Commissioner of the Small Claims Court.

Experience: 30 years

PRACTICE AREAS

- Business Crimes & Investigations
- Disputes
- Technology & Innovation

EXPERTISE

All areas of general commercial litigation, including:

- Arbitration, mediation and alternative dispute resolution
- Corporate fraud/business crimes
- Banking litigation
- Stock exchange related litigation
- Administrative law
- Information technology law
- Unlawful competition law (including restraints of trade and Anton Piller orders)
- All areas of intellectual property litigation
- Trademark and copyright enforcement
- Media law disputes
- Dispute Resolution
- Business Crimes & Investigations

RELEVANT EXPERIENCE

Acted on behalf of the Board of Neotel in investigating a range of reportable irregularities that had been raised by their auditors in compliance with their duties arising from IFRIS. This investigation led to, among others, the uncovering of a special purpose vehicle inked to

the now infamous Gupta family. The investigations also led to the departure of the erstwhile CEO and CFO, as well as to the demise of a major international transaction that was under scrutiny by the South African Competition Authorities.

- Led the team in relation to the exposure of the Gupta leaks and the subsequent media articles written in relation thereto by Tiso Blackstar publications.
- Led the investigation into the corruption at the Passenger Rail Agency of South Africa (PRASA), which saw, among others, the Auditor-General's quantification of unlawful, irregular and wasteful expenditure increase from ± ZAR 550 million to ZAR 15 billion in just one year.
- Successfully attended to having the unlawful contract at PRASA for the acquisition of the locomotives set aside as confirmed by the Supreme Court of Appeal.
- Successfully attended to having the unlawful contract at PRASA in relation to the CCTV camera and speed gate tenders set aside on review.
- Acted on behalf of the Prudential Authority in conducting the first investigation under the new Financial Services Regulation Act into the demise of VBS Mutual Bank.
- Appointed by the Directorate for Priority Crime Investigation in the first public private partnership to assist in the investigation and prosecution of the wrongdoers identified in the demise of VBS Mutual Bank.
- Represented Messrs Pillay, Van Loggerenberg and Janse van Rensberg in the now publicly discredited and politically motivated "SARS Rogue Unit" prosecution.
- Successfully represented Messrs Pillay and Van Loggerenberg in reviewing and setting aside the Public Protector's Report relating to the establishment of the High Risk Investigations Unit (dubbed by the Public Protector as the "Rogue Unit") right up to the Constitutional Court.
- Successfully represented Mr Pillay in reviewing and setting aside the Public Protector's Report relating to his early retirement right up to the Constitutional Court.
- Successfully represented Mr Van Loggerenberg in the first ever reviewing and setting aside of a Report compiled by the Inspector General of Intelligence relating to the South African Revenue Service.
- Halted the wholesale misappropriation of medical dossiers and diversion of corporate opportunities by the erstwhile Managing Director for the Pharmaceutical Division of Ascendis to a number of corporate entities specially set up for this purpose.
- Instituted successful vindicatory proceedings to recover medical dossiers which had been misappropriated by an erstwhile managing director of a pharmaceutical manufacturer and passed on to a competitor in the same industry.
- Instituted and executed successfully an Anton Pillar order for a listed entity whose Chief Executive Officer and Chief Financial Officer had misappropriated vast amounts of money for over 10 years. The successful execution led to the recovery of almost the entire amount which had been misappropriated.
- Participated in the first ever removal of a head of a Chapter 9 institution from office when the erstwhile Public Protector was formally removed from her office.
- Successfully represented the newly appointed Public Protector in resisting a claim by the erstwhile Public Protector for payment of her gratuity which she demanded notwithstanding her removal from office.
- South African Bus Operators Association (SABOA) – successfully represented and continue to represent SABOA in relation to their ongoing challenges with the National Department of Transport for the reform and improvement of the national transportation system.
- Representing Discovery Bank in relation to the termination of banker / customer relationships by virtue of unacceptable and abusive conduct displayed by certain customers which has necessitated securing High Court interdictory relief to protect and safe-guard the targeted employees of the bank.
- Successfully represented Discovery Life in securing the dismissal of a financial service advisor, a debarment of the advisor before the Financial Services Tribunal and securing a High Court judgment against the advisor.
- Conducted an extensive investigation for one of South Africa's largest boat builders into allegations regarding the construction of their most popular model supplied internationally and which culminated in a finding that there was no merit to the various allegations which were advanced for ulterior purposes.
- Conducted an investigation for one of South Africa's mobile telecoms operators which uncovered both fraudulent conduct as well as financial statement manipulation
- Representing a large private company in recovering a substantial refund from SARS which was stolen through the unlawful actions of a criminal syndicate which has targeted a number of large tax payers.

CAREER

- Admitted as an attorney, 1995

- LLB, University of the Witwatersrand, 1993
- BCom, University of the Witwatersrand, 1991

HIGHLIGHTS

- Ranked lawyer (Band 2) by Chambers Global | 2016 – 2022, 2024 – 2026 | Corporate Investigations
- Recognised as the leading Litigation specialist in South Africa by *The International Law Office in their Client Choice Awards* 2010 and 2011 (chosen from more than 2,000 individual assessments received from corporate counsel worldwide)
- Appointed a Commissioner of the Small Claims Court (June 2013)

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