



# Event Review

Luncheon with  
**Herman Mashaba**  
19<sup>th</sup> of June 2014  
at the Country Club in Woodmead



At a Luncheon recently held at the Johannesburg Country Club in Woodmead, Members of SwissCham Southern Africa – South Africa Chapter had the privilege of being addressed by **Herman Mashaba**, Executive Chairman of Lephatsi Investments (Pty) Ltd., Entrepreneur and Author.

SwissCham Vice-President Bob Judelsohn welcomed the guests who had come to hear Herman Mashaba's address on the topic:

## **"FMF Labour Law Constitutional Challenge"**

After a delicious starter and main course, Bob Judelsohn introduced the guest speaker, Herman Mashaba.



**Herman Mashaba** Born in 1959, Herman Mashaba's academic dream was shattered in 1980 in his second year of a B. Admin. at the University of The North when the University was shut down due to political unrests. When the University was reopened after two months, he decided not to go back. Strong promises to send him out of the country for military training. Late 1980 he found himself a clerical job with Spar Pretoria where he worked for 7 months. He then worked 23 months for Motani Industries, which became his longest and last salaried job. During his spell at Motani, managed to buy a car, and two months later resigned and started his business career. He sold different products on a commission basis from the boot of his car for close to two years. Products portfolio ranging from insurance, fire detection systems, linen, crockery, dinner services, etc. His break came late 1983 when he was exposed and sold hair products on a commission basis for one of the companies in Johannesburg. It took him 19 months to make up his mind to start his own hair care manufacturing business. On 12 March 2013 Herman was awarded an Honorary Doctorate in Business Administration by Central University of Technology, Free State.



In February 1985 the first bottle of Black Like Me products hit the South African market. Business started with three other partners and his wife with a R30 000 loan, in a 200sm SBDC units in Ga-Rankuwa, in the then homeland of Bophuthatswana.

He now runs his own investment company, Lephatsi Investments (Pty) Ltd. with investments in various sectors of the South African economy; real estate financial services, insurance brokerage, bullet proof materials, security, fuel distribution, global cleaning services, facilities management and merchandising.

Herman has recently launched his autobiography, Black Like You, which is already attracting a lot of media and

public interest. Since mid-2011 until recently, Herman has served as the Chairman of the Free Market Foundation (FMF).

# **SWISSCHAM**

## **SOUTH AFRICA CHAPTER**



# **“FMF LABOUR LAW CONSTITUTIONAL CHALLENGE”**

**BY HERMAN MASHABA  
EXECUTIVE CHAIRMAN OF LEPHATSI  
INVESTMENTS  
19 JUNE 2014**

# My Defining Moment

- Julius Malema's March for Economic Freedom:

**Mail & Guardian**

**online**

**[www.mg.co.za](http://www.mg.co.za)**

# Who/What is the Free Market Foundation?



- An independent public benefit organisation founded in 1975 to promote and foster:
- An open Society
- The Rule of Law
- Personal Liberty
- Economic and press freedom
- Counter the steady increasing intervention in the economy by Government



# Latest Employment Data



- **High unemployment** (24.7% narrow definition; 35.6% broad definition)
  - 3.3m of 10.4m young people between ages 15 to 24 yrs **Not in Employment, Education, or Training** (they are called the **NEET**)
- **Uncompetitive labour market** by international standards
- **Pay increases** not linked with increased productivity
  - **High entry-level** minimum wages & **High job security**
- **Small firms** made uncompetitive – can't employ available labour
- **Major cause:** Extension of bargaining agreements



# Latest Employment Data

“Just let me work” : The voice of the unemployed

## 10 000 queue for 30 training posts

Andile Dube and  
Bernadette Wolhuter

DURBAN: About 10 000 job hunters lined the streets outside Durban's Currie's Fountain Stadium yesterday in the hope of landing one of only 30 positions in a learnership programme being offered by the eThekweni fire department.

The programme is a skills development initiative run by the municipality and contracted to the fire department.

The department's training manager, Alex Gloster, said the successful applicants would take part in a one-year course that provided them with practical and theoretical training in firefighting.

According to Stats SA, 24.9 percent of South Africans are unemployed, but a financial expert said yesterday that unofficial statistics put this number at around 40 percent.

Initiatives such as the learnership programme seek to decrease this number. Gloster clearly stated that the programme was not a job creation initiative.

“There is no guarantee that students who complete the course will be provided with a job,” he said.

Many applicants seemed to be unaware of this fact.

“Getting the job would be a huge relief,” said mother of three Zinengi Ngubane.

The 32-year-old woman from KwaMashu said she had no qualifications and had been job hunting since she matriculated in 2000.

Four siblings from Mariannhill, who had been standing in the queue for close to four hours, said they wished to get



**HOPEFUL:** About 10 000 job seekers queue outside Curries Fountain Stadium in Durban to apply for 30 positions being offered by the eThekweni municipality's fire department as part of a learnership programme.

Picture: JACQUES NAUL

# Decent work/minimum wage?



Men desperate to earn a living.



Men and women of our Country turned in scavengers.



# The Extension of Bargaining Council Agreements to Non-Parties

- How do they work?

- Firms with 50% + of workers in industry and labour unions get together and negotiate wages and other conditions of employment
  - Minister on request must then **extend the agreement to other firms** in the industry that were **not party** to these negotiations
- Negotiating businesses are mostly **larger companies**
  - Agreed wages **reflect the higher wages** paid in these businesses
- The firms involved have an **incentive to increase costs of competitors (usually small firms)** and drive them out of business
- The **government enforces the collusion**

# Collusion in Bargaining Council Agreements



- Worker representatives in large firms have **an incentive to negotiate higher wages** for their members and **no incentive to consider** the effects on unrepresented workers in small firms
  - The closing of small firms means **less downward competition** on their own wages
- **Employers and workers collude** to limit competition
  - This cartel system protects participating firms from competition from non-participating small firms and protects union members from competition for jobs in the industry

# Consequences of Extension of Bargaining Council Agreements



- **Fewer labour intensive smaller firms**
- **Fewer entrepreneurs**
- **Fewer jobs**, mainly created by small firms
  - Women
  - Africans
  - Young people
- **Fewer start-up firms**
- **Higher prices for consumers**
  - Reduced competition

# Labour Law Challenge

- Section 32 of the labour relations act
- Minister of labour **MUST** extend agreements to non parties
- FMF wants this “**MUST**” to change to “**MAY**” extend the agreements to non parties



# Labour Law Challenge Status

- 5 March 2013 - FMF lodged papers in the Gauteng North High Court
- Minister of Labour and 27 Bargaining Councils filed notices of opposition
- Extensions granted eventually to 30 September with no further answering affidavits
- 31 July 2013 - COSATU applied to intervene – granted by FMF with 30 September 2013 closing date
- COSATU asked for further extension – FMF declined
- 4 October – NUMSA applied to intervene – FMF opposed
- 7 October - FMF asked for the court date to be set for the hearing
- 13 January 2014 – FMF lodged opposition to NUMSAs court application
- April 2014 – FMF filed papers in the Gauteng North High Court for a Court date









Please view and download  
event pictures on our website:  
[www.swisscham.co.za](http://www.swisscham.co.za)

Daniela Maurer  
SwissCham Southern Africa – South Africa Chapter