WHEN YOU NEED TO BLOW THE WHISTLE

A QUICK GUIDE TO OBLIGATIONS AND RIGHTS OF EMPLOYERS AND EMPLOYEES
In terms of South Africa's Protected Disclosures Act

OUR OBLIGATION TO RAISE A FLAG
On employment we accept a duty to act in the best interests of our employer. Reporting suspected or known unethical activity forms part of this duty. The Protected Disclosures Act of 2000, amended in 2017 ('PDA'), sets out rights and responsibilities of employers, employees, former employees and contractors in the exercise of this obligation.

YOUR RIGHT TO KNOW HOW TO DO SO
Just as we have an obligation to speak up, our employer must put in place and inform us about the ways in which we can do so. Make sure that you are familiar with the speak up / whistleblowing avenues and mechanisms in place for the employees working for your employer. If you are comfortable raising your concerns internally and openly you should do so, but if you have concerns about this you can use the channels for confidential and anonymous reporting your employer has put in place.

MATTERS TO WHICH PDA PROVISIONS APPLY
The PDA does not apply to every report of alleged wrongdoing. It does apply to:
A potential or actual criminal offence, a failure to comply with a legal obligation, an actual or likely miscarriage of justice, the endangerment of the health and safety of a person or the environment, unfair discrimination in terms of Chapter II of the Employment Equity Act or the Promotion of Equality and Prevention of Unfair Discrimination Act.
In practice if you report anything unethical you are likely to be covered by the Act.

CRITERIA FOR A DISCLOSURE TO BE PROTECTED
To qualify for legal protection, a disclosure must be: made in good faith, reasonably believed by the whistleblower to be true, not for personal gain, according to a substantively correct procedure, and to the right authority.

THE RIGHT NOT TO SUFFER OCCUPATIONAL DETRIMENT
If you make a protected disclosure, you have a right not to suffer adverse consequences relating to your employment status. The following are examples of 'occupational detriment': harassment, intimidation or disciplinary action, disadvantageous and unilateral alteration of terms and conditions, being given an unfairly negative reference, civil claim for breach of confidentiality, and other types of negative impact on employment prospects or job security. You must report any retaliation you experience arising from your disclosure.

THE RIGHT TO FEEDBACK
Whistleblowers have the right to feedback regarding whether the employer is investigating an allegation and if not, why not, and what the outcome of any investigation is. However, the employer is not required to provide information that might compromise an investigation or contravene another law. Remember, if you make a report anonymously, your employer will not be able to contact you to provide feedback, but if you made a report via an independent ethics hotline you can use your reference number to ask them if the employer has sent any feedback for you.

THE OFFENCE OF FICTITIOUS REPORTING
You commit a legal offence, and gross misconduct in your employment relationship, if you abuse whistleblowing systems by making a report that you know, or reasonably ought to know, is false. Don't abuse the resources that exist to protect the best interests of your colleagues and your employer. Where intentional harm is caused and suffered, the PDA provides for either or both a fine and imprisonment for up to two years.

SA BIAS INDUSTRIES (PTY) LIMITED

WHISTLEBLOWING HOTLINE: 086 286 1008