OCTAVIAN & CO. ADVOCATES,

P. O. Box 77353,
DAR ES SAAM.

Ref. UDA/SG/04/2011

21st June 2011

To: General Manager,
Shirika la Usafiri Dar es Salaam Ltd. (UDA),
P. O. Box 872,
DAR ES SALAAM.

Dear Sir,

Re: LEGAL OPINIÓN ON VARIOUS MATTERS PERPETRATED BY ROBERT KISENA, THE EXECUTIVE CHAIRMAN OF SIMON GROUP LTD.

I refer to the discussions you had with me and Mr. Iddi Simba, the Chairman of the Board of Directors of UDA, on 20/06/2011. You asked me to write a legal opinion on the actions of Robert Kisena since 10/06/2011 when it is reported that an Extra-ordinary General Meeting of the company was held to-date when he says he now has full control of the Company. You gave me three specific areas in which I should centre my opinion as:

(i) The legality of Robert Kisena and Dr. Didas Masaburi going to the Company premises and holding the so-called Extra-ordinary General Meeting of the company in which various resolutions were passed.

(ii) The legality of Robert Kisena and Dr. Didas Masaburi resolving that the Board of Directors under the Chairmanship of Hon. Iddi Simba be dissolved and Mr. Victor Milanzi be suspended from all of his official duties in the company.

(iii) The legality of the alleged freezing of the company's bank accounts by the purported Extra-ordinary General Meeting held on 10/06/2011.

Hereunder is my opinion on the above mentioned issues and related matters.

On the issue No. (i): Let it be understood that a General Meeting, be it Annual or Extra-ordinary, is a meeting of the shareholders of the company which is convened and held according to a set of defined regulations or rules. Article 63 of the Articles of Association of the Company require that a corporation/legal entity which is a member of the company may by a resolution of its Directors or other governing body authorize such a person as it thinks fit to act as its representative at any meeting of the Company. Dar es Salaam City Council and Simon Group Ltd. are legal entities whose attendance by

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representatives at the purported Extra-ordinary General Meeting had to be sanctioned by a resolution of their governing bodies. In the case of DCC the attendance by Dr. Didas Masaburi (the Mayor) had to be sanctioned by a resolution of the councilors and in the case of Simon Group by a resolution of the Board of Directors of that Company. Such resolutions ought to have been in writing and submitted to the Company prior to the date and time of the meeting. My prediction may be wrong but until and unless it is proved so, there appears no such resolutions made and this fact vitiates the so called Extra-ordinary General Meeting rendering it null and void because Mr. Didas Masaburi (the Mayor) and Robert Kisena did not have the pre-requisite authorities to attend and hold that meeting.

In reference to issue No. (ii) above: As pointed out when submitting on issue No. (i) the duo i.e. Dr. Didas Masaburi and Robert Kisena lacked the necessary authority to attend and hold the purported Extra-ordinary General Meeting.

In addition, under Article 58 of the Articles of Association a member is not entitled to vote at any General Meeting unless all calls or other sums payable by him in respect of shares in the company have been paid. It is common knowledge that under paragraph 2.2.(b) of the Share Subscription Agreement which was signed on 11/02/2011, Simon Group Ltd. was required to pay T.Shs. 285,660,984/= which constituted the second 25% of the value of the subscribed shares, within a priod not exceeding 120 days of the signing of the Agreement. Counting from the date of signing, the 120 days expired on 10/06/2011 and yet up to that date not a single cent had been paid by Simon Group Ltd. rendering the Company or any of its appointed representatives not able to exercise its or their right to vote at the so-called Extra-Ordinary General Meeting which in turn means that any vote/decision made by Robert Kisena to effect the listed resolutions would be rendered a nullity owing to this apparent irregularity.

Another issue concerns the time frame for giving Notice of General Meetings. Article 45 of the Articles of Association requires a period of not less than 21 days for a Notice of General Meetings. In the present case this requirement was not complied with as the Notice was of a shorter period than that prescribed under the said Article. This vitiates the Meeting and any resolutions passed there under.

The effect of the irregularities (i.e. lack of authority, disqualification from voting under Article 58 and non-compliance with the notice period) surely renderd the decisions made at the purported Extra-ordinary General Meeting null and void. Thus the decisions to dissolve the Board of Directors and to suspend Mr. Milanzi can not, in my view, stand.

Regarding issue No. (iii) (the freezing of Bank Accounts): My understanding is that the creation or dissolution of Bank Accounts of a Company is the exclusive function of the Board of Directors who are vested with the day to day running of the company. This is not the function of the shareholders. I therefore keep on wondering as to how and why the Banks could have accepted a mandate from an illegal meeting of shareholders to freeze the Company's Accounts.

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Other Issues:

(a) **Robert Kisena as Secretary:**

In all the correspondence, including the Minutes of the purported Extra-Ordinary General Meeting held on 10/06/2011 Robert Kisena is describing himself as "Secretary". The question to ask is how has he been appointed to that position and in pursuance of what provisions of law and/or the Articles of Association. Under Section 187 of the Companies Act (Cap.212 R.E. 2002) and indeed under Article 83 of the Articles of Association, the appointment of a Secretary is vested in the Board of Directors. Now, to the extent that no appointment of Mr. Kisena as Secretary has been made/sanctioned by the Board of Directors of UDA, it is my opinion that he can not justifiably describe himself as Secretary. If that appointment was made by the purported Extra-ordinary General Meeting then it was irregular and contrary to the said provisions of law and the Articles of Association.

(b) **The status of Simon Group Lrtd. as a Shareholder:**

It is true that under the Share Subscription Agreement Simon Group Ltd. was allotted 7,880,303 Ordinary Shares with a premium value (T.Shs.145/= per share) of T.Shs. 1,142,643,935/=. Allotment/Subscription of Shares is a mere book entry and it does not reflect the shareholder's actual investment in the Company. The latter is reflected by the paid up value of the shares. In the instant case Simon Group Ltd. has paid an amount of T.Shs. 285,660,984/= which is a mere 25% of the total value of the subscribed shares. The next 25% which comprises the same amount in terms of money has not been paid up and in actual fact the subscriber is already in default of payment. According to the Share Subscription Agreement (paragraph 2.2) the balance amount of T.Shs. 571,321,970 (constituting the remaining 50% of the value of the shares) is to be paid by equal monthly instalments of T.Shs. 95,688,131/= within a period not exceeding 15 months counted from the expiry of the period of 120 days. As the subscriber has defaulted in payment of the second 25% of the value of the shares there is nothing which will prevent him from defaulting in paying the said instalments as and when they become due. Thus Simon Group will only be entitled to share certificates in respect of the paid up amount constituting the first 25% of the value of the subscribed shares and the rest of the shares will be liable to forfeiture under the provisions of Articles 26 and 32 of the Articles of Association of the Company.

I beg to submit.

Yours faithfully,

J. A. Lyimo
ADVOCATE

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