



TJ Mare and Louis Koster.

Manage your business risks

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MBOMBELA - Last week the Kruger Lowveld Chamber of Business and Tourism (KLCBT) held another networking breakfast which focused on protecting your business with effective risk management. The guest speaker Louis Koster, an attorney from Stegmanns Incorporated, shared his wisdom concerning risks in business and the liability regarding contracts.

According to Koster, risk can be determined when you can identify events about which you are uncertain, the likelihood of such events happening, and what the effects it will have on the business.

Uncertainty does not only present itself in the macro-environment, such as a natural disaster, but also in the micro-environment, like a staff member disclosing confidential information or a client pulling out of a major deal.

The best way to combat these micro-environment risks, is with a proper contractual agreement, so that anyone who breaks it, can be held liable.

Liability can be measured with conduct, wrongfulness, fault (negligence or intention), causation and harm done.

Contracts also have certain standards to uphold to be valid.

"Firstly, all parties should engage out of free will and in good faith. Consensus and serious intent to bind themselves is another must, and capacity to commit is vital," said Koster. Capacity refers not only to the mental state of a person, but also to the position of the person.

"A janitor cannot sign a contract on behalf

of a company if only the director is allowed to."

Furthermore, definite terms and formalities must be adhered to, and the contact must be lawful. "If you are uncertain about what you can legally ask of an employee for example, refer to the labour laws. Should you engage with a customer, refer to the consumer law."

Obligations must be possible, and the content has to be certain.

Koster created a scenario of a sales representative, selling products to a client, and the client not paying for it in full. "Once you have handed over the product, you can not demand that it be returned. You will have to claim damages in a lawsuit, that may end up costing more than the money he owes. Always keep ownership of the products until you have been paid in full, to minimise the risk."

Koster advised businesses to always have insurance, albeit for assets or even on the lives of their stakeholders.

"If you are a part-owner of a business, and your partner dies, there is a chance that his next of kin will inherit the business. It often happens that you don't know the person well, don't get along, or they do not have the skills to perform the duties your partner once did. Should you take out an insurance policy on his life, it could help you with the funds you need to buy out his shares, which otherwise would have been out of your own pocket."

Koster encouraged business owners to complete a risk evaluation annually, and to make use of expert advice to ensure that they are always covered.