

Adv. Tshehlana A. Makola (LLB, UL)

Practising Advocate at Polokwane

Polokwane

09 February 2024

TO: The Secretary : Mr Vhonani Ramaano

Ad Hoc Committee to Nominate a Person for

Appointment as Deputy Public Protector

3rd Floor, 90 Plein Street

Cape Town,

8000

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**RE: NOMINATION FOR APPOINTMENT OF ADV. SEKGAME SHADRACK
TEBEILE AS A DEPUTY PUBLIC PROTECTOR OF THE REPUBLIC
OF SOUTH AFRICA**

Nominator's names: Adv. Tshehlana A. Makola

(Practising Advocate, Polokwane)

Nominee's Name: Adv. Sekgame Shadrack Tebeile

Nominee's current occupation: Practising Advocate / Legal Practitioner

Nominee's Business Title: Advocate (Adv.)

Nominee's place of birth: Ga-Nchabeleng Village, Limpopo Province, South Africa

Nominee's citizenship: South African

Nominee's Qualifications: LLB (University of Limpopo);

LLM (University of California, Los Angeles)

LLD (University of Limpopo) (In Progress)

Dear Mr Ramaano,

It is a privilege for me to write this nomination to your office to nominate **ADV. SEKGAME SHADRACK TEBEILE (Adv. Tebeile)** to be appointed as the Deputy Public Protector of the Republic of South Africa.

I will set out motivation below as to why **Adv. Tebeile** deserves appointment as the Deputy Public Protector.

I have known **Adv. Tebeile** since 2011 when I met him at the University of Limpopo while I was a second-year student for the Bachelor of Laws (LLB) class and at that time **Adv. Tebeile** was in his final year of his LLB studies. Since then, **Adv. Tebeile** became my mentor and role model until to date.

I wish to note that after completion of my LLB I joined the practice of law as candidate attorney and later passed all the Attorneys Board Examinations. However, from the inspiration I always drew from **Adv. Tebeile**, I decided not to pursue the attorneys profession but to pursue the advocates profession.

I was admitted as an advocate in 2018 and since then, I have been working together with **Adv. Tebeile** in most of the matters wherein he is our leading counsel.

Although **Adv. Tebeile** chose not to belong to any of the advocates' Bars affiliated with the General Bar Council of South Africa or any advocates' Bar in South Africa, he has been exceptional in his practice of law and serves as an example that non-Bar advocates should not be viewed as incompetent and unreliable because to do so will bring the advocates profession into disrepute. This also convinced me to join **Adv. Tebeile** in his decision not to join the Bar but not because I am not an independent thinker but because I have seen from **Adv. Tebeile's** practice of law that nothing is impossible only if you are willing to go extra mile. It is a matter of fact that we have non-Bar advocates practising law in South Africa and that cannot be avoided. Notwithstanding that **Adv. Tebeile** is not a member of the Bar, he litigated in the High Court of South Africa, Labour Court, Labour Appeal Court, Supreme Court of Appeal, and the Constitutional Court of South Africa.

Adv. Tebeile made it clear to me that he has a duty to protect the advocates profession and will do so in his capacity as non-Bar advocate. He further shared with me that he

is convinced that he has a divine call or duty to rebuild or protect advocates profession, in particular, the non-Bar advocates profession and also convinced that he has a duty to bring hope to the lives of non-Bar advocates who may view themselves as incompetent and less of advocates due to the stigma they face in their practice of law.

I am reliably informed by **Adv. Tebeile** that another reason for him not to join the Bar is that he has no doubt that due to limited space for pupillage intakes every year, not every admitted advocate in South Africa will be able to join the constituency Bars within the Republic of South Africa and for this reason, he found it so important to protect the advocates profession through his commitment to bring hope to the lives of non-Bar advocates through his exceptional achievements as a non-Bar advocate.

Indeed, I observed **Adv. Tebeile** achieving so much in his practice as an independent advocate and/or as a non-Bar advocate. He successfully litigated against number of Senior Counsel who have since then been recruiting him to join the Bar and of which in their own version he will benefit the Bar with his expertise and achievements in litigation on constitutional matters. However, **Adv Tebeile** holds a firm view that his aforesaid expertise and success in constitutional litigation must benefit non-Bar advocates by bringing hope into their lives and encourage them to do better in their practice of law. He further holds a view that his aforesaid achievements should benefit non-bar advocates profession by restoring reputation to this part of the legal profession which has been facing a humiliation for some years.

Through observing **Adv. Tebeile**'s hard work and his commitment to help the indigent members of public with his *pro bono* legal services, in particular, in human rights and constitutional litigation, I was always convinced that one day I will witness appointment of **Adv. Tebeile** into a position of higher responsibility such as Public Protector or Deputy Public Protector from the pool of non-Bar advocates, and I have no doubt that such appointment requires exceptional achievements within the legal profession and which exceptional achievements I have no doubt that **Adv. Tebeile** has acquired. Indeed, in February 2023 I witnesses appointment of **Adv. Tebeile** as an Acting Judge of the High Court of South Africa, Limpopo Division, Polokwane. I am of the view that his appointment as an Acting Judge in February 2023 deserved to be applauded since it was beneficial to the Judiciary. His appointment as an Acting Judge of the High Court in February 2023 came as a success not to him but to the human rights lawyers in South Africa because they were represented in the South African Judiciary.

I had an opportunity to appear as a counsel before Tebeile AJ (Adv. Tebeile) during his tenure as an Acting Judge of the Limpopo Division, Polokwane, and I wish to bring to the attention of the Portfolio Committee on Justice and Correctional Services ("the Portfolio Committee") that **Adv. Tebeile** reflected high level of judicial temperament while he was presiding as an Acting Judge. His commitment to upholding of the Constitution of the Republic of South Africa made him an

exceptional Acting Judge during his acting stint at the High Court of South Africa, Limpopo Division, Polokwane.

I can affirm that during my appearance before Tebeile AJ during his acting stint as the Acting Judge of the Polokwane High Court, he demonstrated high level of respect to legal practitioners. Above everything, as an Acting Judge of the Limpopo Division, **Adv. Tebeile** demonstrated high level of commitment to effective administration of justice in one matter wherein the court file was not paginated but Tebeile AJ proceeded to hear the matter on the basis that the fault on the attorney not to paginate the court file should not be to the detriment of the indigent clients whose disputes must be resolved by the courts without any delay. He viewed his displeasure on the conduct of the attorney not to paginate the court file, but also emphasised a need for effective administration of justice and the right to have access to justice enshrined in section 34 of the Constitution while he dealt with that matter wherein the court file was not paginated. In light of the fact that it may take six more months for the matter to make its way to court after it is removed from the court roll for lack of pagination, Tebeile AJ ruled that it was in the interest of justice that the matter be heard notwithstanding the attorney's failure to paginate the court file. **Adv. Tebeile** is an example of a respecter and upholder of the Constitution. For this reason, he is the right candidate for appointment as the Deputy Public Protector and I have no doubt that as Deputy Public Protector, he will uphold the Constitution of the Republic of South Africa to the best of his ability.

I wish to bring to the attention of the Portfolio Committee that due to his outstanding achievements within the legal profession and his commitment to offer *pro bono* legal services to indigent members of public together with his outstanding achievements as a non-Bar advocate, in 2016 **Adv. Tebeile** was approached by Legal Resources Centre (Cape Town) to offer *pro bono* legal services to their indigent clients in human rights and constitutional law cases. His first matter as a counsel on behalf of the Legal Resources Centre's indigent client was an urgent application in the North-West High Court, Mahikeng.

Due to his noticeable commitment to offer *pro bono* legal services to indigent members of public and his outstanding achievements, I further wish to state that since 2021 **Adv. Tebeile** has been offering *pro bono* legal services to indigent clients represented by the **Lawyers for Human Rights: Pretoria** on human rights litigation. I vividly remember a conversation I had with **Adv. Tebeile** in his chambers one morning after his first appointment by **Lawyers for Human Rights: Pretoria** as a counsel in one urgent application on an immigration law matter wherein I asked **Adv. Tebeile** if he will not reconsider his decision not to join the Bar on the basis that he has made his mark on human rights litigation to an extent of attracting institutions such as **Lawyers for Human Rights**. With a gentle voice, **Adv. Tebeile** told me that the day he joins the Bar it is the day he would have compromised the integrity and hope of the non-Bar advocates profession because the general perception that non-Bar advocates are incompetent will continue to consume the hope of non-Bar advocates. He indicated that he believes that there are so many non-Bar advocates who draw

inspiration from his life as a non-Bar advocate with his exceptional achievements and for this reason, he took a resolution to appoint most of non-Bar advocates as second and/or further counsel in most constitutional matters wherein he serves as a counsel. He said he does so in attempt to transform advocates profession, in particular, non-Bar advocates profession. I am one of the non-Bar advocates who have been working with **Adv. Tebeile** as a second counsel or third or further counsel in matters of constitutional nature.

I wish to note that in all the Constitutional Court matters, Labour Appeal Court matters, and Supreme Court of Appeal matters in which he served as a leading counsel, he appointed at least one non-Bar advocate to serve as a second or third or further counsel in his attempt not only to instil confidence in these advocates, but also to bring hope into their lives and to make them believe in their abilities and also for them to have exposure on constitutional litigation. I am one of the non-Bar advocates who worked with **Adv. Tebeile** in his litigation in the High Court, Labour Appeal Court, Supreme Court of Appeal, and the Constitutional Court. I wish to confirm that from his engagements on issues of law, I learn a lot to become a better person every day.

I have no doubt that appointment of **Adv. Tebeile** as the Deputy Public Protector of the Republic of South Africa will not only serve the South Africa public, but will also bring much light and hope to the lives of non-Bar advocates who have an obligation to diligently offer legal services to the members of public without fear, favour and

prejudice. This will also serve as a motivation to this hardworking young advocate who always have a heart for indigent litigants.

Although I have attached a copy of the nominee's curriculum vitae (resume), I wish to note that some of the nominee's achievements were not set out in his Curriculum Vitae and would therefore be set out in this nomination letter for the sake of completeness and also to assist the Committee in its determination as to whether the nominee satisfied the requirements for appointment as the Deputy Public Protector.

I wish to note that **Adv. Tebeile** is not only admitted advocate of the High Court of South Africa, but also admitted on the List of Counsel of the African Court on Human and Peoples' Rights with its seat in Arusha, Republic of Tanzania.

I found **Adv. Tebeile** to deserve to be appointed as the Deputy Public Protector, particularly, given his age as a 34 years-old young black advocate who has achieved a lot in his career as a dedicated human rights lawyer and whom has elevated our country's name in Africa by his appointment as a counsel on the List of Counsel at the highest Court in Africa, namely, the African Court on Human and Peoples' Rights on 24 April 2019. His appointment on the List of Counsel at the African Court on Human and Peoples' Rights in April 2019 at the age of 28 is a clear proof that **Adv. Tebeile's** extraordinary work is recognised internationally and that he has a potential to serve the South African public as their next Deputy Public Protector.

I wish to note that due to his passion to serve the poor members of the community with his legal services, **Adv. Tebeile** accepted a call by the African Court on Human and Peoples' Rights to represent indigent clients appearing before the African Court.¹ In attempt to prepare himself to help indigent clients appearing at the African Court, **Adv. Tebeile** attended the "Third Training for Counsel to represent Indigent Applicants before the African Court" held on 5-7 August 2019 in Arusha, Tanzania. Copy of the certificate awarded to **Adv. Tebeile** at the aforesaid Third Training of Counsel on the Court Roster is attached to this nomination. As evident from the certificate awarded at the Third training of Counsel on the Court Roster, at the African Court on Human and Peoples' Rights, **Adv. Tebeile** will amongst others, represents indigent applicants before the African Court on Human and Peoples' Rights, in particular, on human rights cases on *pro bono* basis and under the Legal Aid Scheme of the African Court on Human and Peoples' Rights.

I must state that for a young black advocate like **Adv. Tebeile** who is expected by his peers to be advancing a lucrative practice of law but chose a different path of assisting indigent applicants at the African Court, his work clearly demonstrates that of a person committed to access to justice and his appointment as the Deputy Public Protector will benefit the members of public who are the beneficiaries of the the

¹ The Certificate awarded to Adv. Tebeile by the African Court on Human and People's Rights at the Third Training for Counsel on the Court Roster held in August 2019 states that "Successfully participated in the Third Training for Counsel to represent Indigent Applicants before the African Court held from 5-7 August 2019 in Arusha, Tanzania." (My emphasis). This is clear evidence that Adv. Tebeile has committed himself to offer free legal services not within the South African legal profession but at a Continental level (African Court) and therefore such commitment confirms that Adv. Tebeile qualifies appointment as the Deputy Public Protector of the Republic of South Africa for his reflection as an individual who is selfless.

services of the Office of the Deputy Public Protector. Hence, this nomination for appointment as the Deputy Public Protector.

As part of his attempt to be exposed to the proceedings at the African Court on Human and Peoples' Rights, I wish to mention that **Adv. Tebeile** attended the 53rd Ordinary Session of the African Court on Human and Peoples' Rights held at the Court's seat in Arusha, Republic of Tanzania held on 10 June to 05 July 2019. During the 53rd Ordinary Session of the Court and during the Third Training for Pro Bono Counsel, **Adv. Tebeile** was commended by the former President of the African Court, Hon. Justice Sylvain Oré and other Justices and staff members of the African Court for his commitment to advancement of human rights in South Africa and for his decision to take a call to represent indigent applicants before the African Court.

Not only that **Adv. Tebeile's** admission or acceptance as a counsel on the List of Counsel at the African Court on Human and Peoples' Rights should not be lightly viewed but be acknowledged as exceptional and extraordinary since **Adv. Tebeile** is still young given his age of 29 years at the time of his admission at the African Court, but the fact that **Adv. Tebeile** accepted a great call to serve indigent applicants on *pro bono* basis before the African Court. What makes **Adv. Tebeile's** admission on the List of Counsel at the African Court exceptional is not merely his admission, but most importantly, his acceptance of a call to represent indigent applicants before the African Court. That itself is a symbol of **Adv. Tebeile's** dedication to serve the poor

through his exceptional expertise in human rights. For this reason, by appointing **Adv. Tebeile** as the Deputy Public Protector, the Portfolio Committee will not only be recognising **Adv. Tebeile's** commitment to serve the disadvantaged people at the African Court, but will also be affording **Adv. Tebeile** an opportunity to serve South Africa at a level of Chapter 9 institution through his human rights expertise.

His admission as a counsel on the List of Counsel at the African Court does not only reflect personal achievements but also signifies the quality and success of the South African legal profession of which **Adv. Tebeile** is a product. As such, **Adv. Tebeile** deserves appointment as the Deputy Public Protector to give him an opportunity to serve the Republic of South Africa's public who require the service of the Deputy Public Protector.

Having started his career as a Law Researcher at the Constitutional Court in July 2012 to July 2013, **Adv. Tebeile** has epic knowledge of constitutional law and human rights law. Although **Adv. Tebeile** returned to South Africa in May 2014 after completion of his LLM at the University of California, Los Angeles, **Adv. Tebeile** remained commitment to serving the people of South Africa with pro bono legal services on human rights and constitutional litigation.

Adv. Tebeile's commitment to serve Africa through his human rights expertise and most importantly on *pro bono* basis led to his appointment in December 2017, as a

Judge for the Africa Rounds of the University of Oxford's Price Media Law Moot Court Programme held at the University of Johannesburg, South Africa from 8-10 February 2018.

Outside his services as an advocate in South Africa, in April 2018, **Adv. Tebeile** was invited by the Makerere University's School of Law to present a Public Lecture. Indeed, on 18 April 2018, **Adv. Tebeile** presented a Public Lecture at the Makerere University, Kampala, Uganda under the topic "*The role of civil society in the enforcement of constitutional rights in Uganda: Development of legal standing in constitutional litigation and costs implications thereof*". Copy of the invitation by the Public Interest Law Clinic (PILAC) of the School of Law, Makerere University inviting **Adv. Tebeile** to attend a Public Lecture is attached hereto. During the Public Lecture at Makerere University, **Adv. Tebeile** inspired so many young people at the Makerere University to take a career in human rights law and constitutional law. He also accepted a request to offer mentorship to the students and graduates of Makerere University and which **Adv. Tebeile** continues to do until today.

Due to his commitment to serve the indigent applicants before the African Court, it was found prudent to host **Adv. Tebeile** on one of the historic events by the African Court. Hence, in July 2019, **Adv. Tebeile** was invited by the former President of the African Court on Human and Peoples' Rights, Hon. Justice Sylvain Oré as a guest during the Launch of the Inaugural Volume of the *African Court Law Report* (2006-

2016) which took place on 04 July 2019 at the seat of the African Court on Human and Peoples' Rights in Arusha, Tanzania.

I already stated above that in August 2019 **Adv. Tebeile** attended the Third Training for Counsel who have been admitted on the List of the Court Roster of the African Court on Human and Peoples' Rights. The said Training was held at Arusha, Tanzania where the African Court has its seat.

During the Third Training for Counsel on the Court Roster of the African Court in August 2019, the participants were assessed through fictitious cases and expected to produce Heads of Argument and argue cases as part of practical component for the Training. During that Third Training, **Adv. Tebeile's** performance was found to be outstanding and as a result he was awarded a certificate by the African Court. Copy of the Certificate awarded to **Adv. Tebeile** after the aforesaid Third Training held on 5-7 August 2019 at Arusha, Republic of Tanzania is attached.

As part of his commitment to use law as a solution to challenges of human rights violations in South Africa and Africa, on 21-26 July 2019 **Adv. Tebeile** attended Judicial Skills Training Course for aspirant judges organised by the Legal Education And Development (LEAD) in collaboration with the Law Society of South Africa. This Training is aimed at training legal practitioners who aspire to be judges in the future. I wish to note that a requirement for selection as a candidate for Judicial Skills

Training Course is that a candidate must have a minimum of eight (8) years in the practice of law. Notwithstanding the fact that Adv. Tebeile had five (5) years working experience in the practice of law at the time of his selection for Judicial Skills Training Course, Adv. Tebeile was selected as a candidate because of his extraordinary achievements in his career as an advocate within a short period of time, including his admission as an advocate at the African Court on Human and Peoples' Rights. His outstanding service in the legal fraternity persuaded the Legal Education And Development (LEAD) to select Adv. Tebeile to undergo the Training for aspirant judges notwithstanding that he had only five years' experience in the practice of law at the time.

I wish to note that given his age as a 29 year-old black advocate by then (in April 2019), and currently 34 year-old, Adv. Tebeile's participation at the 2019 Judicial Skills Training Course for aspirant judges serves as a proof that he made exceptional service in the field of law and human rights and has made a remarkable contribution to the legal fraternity and proved himself as an exceptional young black advocate who deserves to be appointed as the Deputy Public Protector. I wish to note that as part of the assignments during the Judicial Skills Training Course in July 2019, candidates were required to write judgments based on real court cases. Adv. Tebeile has written a number of judgments which were commended by the facilitators of the Training.

It worth mentioning that whilst he was studying at the University of California, Los Angeles, **Adv. Tebeile** served as a Member of the Faculty Committee and also as a Member of the Common Collaboration on Learning Environment which gave him an opportunity to serve the community of Westwood's interests in the running of the University of California, Los Angeles. This is a very important attribute which distinct **Adv. Tebeile** from members of students body of the University of California, Los Angeles and demonstrates his commitment to development of higher education institutions not only in South Africa, but also within the international community.

Adv. Tebeile's passion and love for public interest litigation fostered him to be involved in a lot of public interest litigation in South Africa since his return from University of California, Los Angeles in May 2014. However, I wish to note that prior to studying at the University of California, Los Angeles, **Adv. Tebeile** has been involved in a number of community projects to the benefit of poor communities in South Africa. This will be outlined later in this nomination letter.

Despite the fact that **Adv. Tebeile** is a very busy young person, he has found time to give back to his community and the University of Limpopo community by offering *pro bono* legal assistance to students who litigated against the University of Limpopo. He has also participated in a number of organisations' executive committee ever since high school to university and post-university. Despite his very busy schedule, **Adv.**

Tebeile remains committed to serving his community by conducting a number of projects which benefit the members of community.

Between 2012 and 2016 **Adv. Tebeile** served on a panel of lawyers who give free legal advice (legal presentations) to members of public through South African Broadcasting Corporation Radio's (SABC Radio) (Thobela FM) legal programmes on Sundays at 18H00-19H00. This was a legal programme on Thobela FM on which lawyers are invited as guests to tackle legal issues on air for free and allow listeners to call and ask legal questions and receive answers free of charge.

For the reasons above and those to follow, I regard **Adv. Tebeile** as a person who has rendered a distinguished service to the community of South Africa and for the benefit of this country in the advancement of jurisprudence and which makes him a suitable candidate for appointed as South Africa's next Deputy Public Protector.

Over the course of **Adv. Tebeile's** distinguished career as a human rights lawyer and his leadership role in the community from which he comes, he has generously given himself in service to his community, especially on matters concerning community and youth development, education, justice and governance. His values, including commitment to achievement of the right to further education enshrined in section 29(1) of the Constitution of the Republic of South Africa, are aligned to betterment of all South Africans and therefore **Adv. Tebeile** will certainly uphold the Constitution should he be appointed as the Deputy Public Protector.

Acting on *pro bono* basis in the interest of public and in advancement of the right to further education which is a fundamental right in the Bill of Rights, in August 2014 **Adv. Tebeile** represented the Tebeila Institute in a High Court case to declare unconstitutional and invalid the admissions policy of the Limpopo College of Nursing in High Court case no 1173/2014. The aforesaid admissions policy excluded from admission into a nursing diploma, the members of public who matriculated more than three years prior application to study at Limpopo College of Nursing. In this case **Adv Tebeile** successfully proved to the High Court that the Limpopo College of Nursing's admissions policy is unconstitutional and invalid to the extent that it discriminates against people on the basis of their year of matriculation. This success also proved **Adv. Tebeile's** commitment to realization of human rights in South Africa and this is so because he mainly litigates on *pro bono* basis on behalf of the indigent clients in human rights cases. It worth to mention that **Adv. Tebeile** has litigated on *pro bono* basis in a number of cases in the Superior Courts in South Africa, including, the High Court of South Africa; Labour Court of South Africa; Labour Appeal Court of South Africa; the Supreme Court of Appeal; and the Constitutional Court.

Notwithstanding the fact that **Adv. Tebeile** is not the member of any Bar in South Africa, it worth to mention that **Adv. Tebeile** is among the youngest advocates in South Africa to lead a legal counsel to present a case in the Constitutional Court in 2015 at the age of 25 in the case of *Tebeila Institute of Leadership, Education Governance and Training v Limpopo College of Nursing and Another 2015 (4)*

BCLR 396 (CC). **Adv. Tebeile** had served as a counsel in a number of cases in the Constitutional Court of South Africa.

Adv. Tebeile is not just a constitutional lawyer, but a young advocate who achieved a great success in constitutional litigation despite all odds faced as a non-Bar advocate. His exceptional achievements as a non-Bar advocate include the fact that he presented, amongst others, but not limited to the following cases in the Constitutional Court of South Africa:

1. *Tebeila Institute of Leadership, Education, Governance and Training v Limpopo College of Nursing and Another* 2015 (4) BCLR 396 (CC);
2. *Limpopo Legal Solutions and Others v Vhembe District Municipality and Others* 2017 (9) BCLR 1216 (CC) (18 May 2017) ;
3. *Limpopo Legal Solutions and Another v Eskom Holdings Soc Limited* 2017 (12) BCLR 1497 (CC) (26 September 2017);
4. *Limpopo Legal Solutions v Vhembe District Municipality and Others* (CCT 119/16) [2017] ZACC 30; (17 August 2017).
5. *Moko v Acting Principal of Malusi Secondary School and Others* 2021 (4) BCLR 420 (CC) ; 2021 (3) SA 323 (CC).

By virtue of the fact that there are limited opportunities within the Independent Bar as opposed to the opportunities present at the General Council of the Bar, the Portfolio Committee will agree with me that the fact that **Adv. Tebeile** has litigated in a number

of cases at the Constitutional Court of South Africa is itself an outstanding achievement and which must be recognised to encourage **Adv. Tebeile** to keep on doing the great work in his betterment of the Republic of South Africa.

Due to his selflessness and commitment to human rights and public interest litigation in attempt to change lives of the ordinary people of South Africa, it worth to mention that **Adv Tebeile** served in the above matters at the Constitutional Court on *pro bono* basis in advancement of human rights course in South Africa. As proof that **Adv. Tebeile** litigated on *pro bono* basis in the Constitutional Court cases, in the case of *Moko v Acting Principal of Malusi Secondary School and Others 2021 (4) BCLR 420 (CC) ; 2021 (3) SA 323 (CC)* the Constitutional Court stated at paragraphs [42]-[44] that:

“[42] Two points were raised by the second to fourth respondents in their submissions in this Court regarding costs: **first, that the applicant was represented on a pro bono basis** and secondly, that they assisted both the applicant and the Court and therefore ought not necessarily be mulcted with costs. I briefly touch on both of these below.

[43] **The applicant was represented on a pro bono basis.** I do not necessarily see this as a reason for departing from the general principles relating to costs in constitutional litigation. **In fact, the second to fourth respondents accept that the pro bono nature of the legal assistance of the applicant, in principle, is no reason not to award costs where the applicant has been successful.** I agree. In my view, the following from *Jose v Minister of Home Affairs* is apt:

“Legal practitioners who appear pro bono in matters in which litigants would otherwise not be able to pursue their fundamental rights, and in particular where the claims do not sound in money, ought not in

ordinary circumstances to be prevented from claiming costs. On the contrary, the granting of a costs order in these circumstances is likely to increase access to justice.”

[44] **The pro bono nature of the legal assistance** does not affect the costs award in favour of the applicant.” (Footnotes omitted)

For the above reasons, **Adv. Tebeile** is not just an advocate but one young black advocate with exceptional credentials and who deserves an appointment as the Deputy Public Protector **in order to encourage other young South Africans to work hard** and commit themselves to the benefit of South Africa and beyond South Africa, and also for the betterment of the people of South Africa in their respective careers like **Adv. Tebeile**.

ADV. TEBEILE’S APPOINTMENT WILL REFLECT TRANSFORMATION ON CHAPTER 9 INSTITUTIONS

I already mentioned above that **Adv. Tebeile** is non-Bar advocate who has achieved so much in his career as a human rights law in South Africa and outside the borders of the Republic of South Africa.

Given **Adv. Tebeile**’s age (34), his appointment as the Deputy Public Protector will advance transformation within the Chapter 9 institutions. His appointment as the Deputy Public Protector will reflect representation of young people within the South

African Chapter 9 institutions. This is so because this will advance appointment of qualified and fit and proper young persons into Chapter 9 institutions such as the Public Protector. Currently we do not have any young person under the age of 35 years holding leadership in Chapter 9 institutions such as the Public Protector.

I have no doubt that the appointment of **Adv. Tebeile** as the Deputy Public Protector will be a true reflection of giving young qualified, exceptional, and competent advocates from both the Bar and non-Bar an opportunity to not only lead as role models for other young people on extraordinary achievements, but also to implant confidence in future generation in desiring to serve as patrons of change in their respective careers and service to the nation.

I am aware that in 2013, at the age of 24 years, **Adv. Tebeile** was honoured for his contribution to community development in South Africa and beyond South Africa by being awarded **Sonke Health and Human Rights Fellowship** to study for the Master of Laws degree (LLM) at the University of California, Los Angeles. It worth to mention that **Sonke Health and Human Rights Fellowship** is awarded to young lawyers in **Africa** who are committed to the social justice and human rights work across the African continent and who have demonstrated a track record of commitment to the advancement and achievement of human rights in their own country for the benefit of Africans. By virtue of being recipient of Man of the Year

Award from BROTHERS FOR LIFE in 2011 and considering other community development work in South Africa, **Adv. Tebeile** was found to be young man who has demonstrated an extraordinary passion to human rights and social justice. Hence, he was awarded **Sonke Health and Human Rights Fellowship** to pursue LLM at the University of California, Los Angeles.

I wish to note that despite his success, **Adv. Tebeile** has never lost sight of the need to give back to his community and South Africa at large, especially on issues pertaining education, law, community development and youth development.

As part of his commitment to make use of public interest litigation as a tool to liberate South Africans from poverty, **Adv. Tebeile** has litigated on issues of the right to education, and which education is viewed as a toll to liberate poor Africans from poverty.

Adv. Tebeile's litigation in public interest includes litigation against the higher institutions of learning such as the University of Limpopo in pursuance of the right to further education demonstrate his notable track record of advancement of human rights in South Africa and Africa. This is evident from a number of constitutional and human rights cases he has been involved as an advocate in South Africa.

Because of his commitment to develop South Africa through his litigation skills, **Adv. Tebeile** has led a legal team to represent a former student of the University of Limpopo in her battle with the University to be awarded her degree in 2018 in the case of *Makwela v University of Limpopo and Another* (4384/2017) [2018] ZALMPPHC 2 (6 February 2018). In *Makwela v University of Limpopo and Another* the court found the provisions of the University of Limpopo's Rule G4.3.1 which provides that "where the composition of a programme changes substantially, the student shall be required to register under the new programme, whether or not such student has interrupted his or her studies" to have materially and adversely affected Ms Makwela's right to fair administrative action. The University of Limpopo's Rule G4.3.1 was found not only to be irrational but also to be grossly unreasonable. **Adv. Tebeile** represented Ms Makwela until the Supreme Court of Appeal where the University of Limpopo's application for leave to appeal was dismissed with costs. This reflects his commitment to use litigation as one of the solutions for African human rights challenges.

As part of his commitment to use litigation as a solution for African human rights challenges, **Adv. Tebeile** serves on *pro bono* basis as a Counsel on a number of human rights cases at the **African Commission on Human and Peoples' Rights** with its seat in Banjul, The Gambia.

The African Commission is another body of the African Union dealing with issues of human rights and which issues are closer to **Adv. Tebeile**'s heart. His first success at the African Commission on Human and Peoples' Rights in his *pro bono* litigation is in a matter of *Tivoneleni Edmond Lubisi v Republic of South Africa* of which judgment or decision on the first leg of the case on Seizure has been decided.

Adv. Tebeile is also involved in other cases pending at the African Commission and he is doing so on *pro bono* basis.

CONCLUSION AND RECOMMENDATIONS

I wish to state that **Adv. Tebeile**'s credentials and achievements satisfy with distinction the requirements for appointment as the Deputy Public Protector. I therefore recommend that **Adv. Tebeile** be appointed as the Deputy Public Protector of South Africa for his excellent and extraordinary achievements as a community builder, a philanthropist and patron of human rights in Africa notwithstanding his young age (34). It will be a humbling moment for me to witness the appointment of **Adv. Sekgame Shadrack Tebeile** as Deputy Public Protector of the Republic of South Africa.

Yours faithfully,



A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right. The signature is written over a solid horizontal line.

Adv. Tshelana A. Makola (LLB, UL)

ADV. SHADRACK TEBEILE

Advocate of the High Court of South Africa;
Counsel at the African Court on Human and People's Rights (Arusha, Tanzania)
LLB (University of Limpopo)
LLM (University of California, Los Angeles)
LLD (University of Limpopo) (In progress)
Cell: 079 146 2755 Fax: 086 401 2393 E-mail: tebeiless@gmail.com

12 February 2024

TO: The Secretariat

Ad Hoc Committee on to Nominate a Person as Public Protector

3rd Floor, 90 Plein Street

Cape Town, 8000

Tel: 021 403 3820

Cell: 083 709 8427

Email: vramaano@parliament.gov.za

Dppvacancy@parliament.gov.za

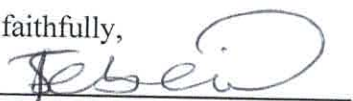
**RE: CONSENT FOR NOMINATION FOR APPOINTMENT AS THE DEPUTY PUBLIC
PROTECTOR OF SOUTH AFRICA**

Dear Sir/Madam,

1. The above matter refers.
2. This letter serves as my consent to my nomination by Adv. Tshehlana Makola for my appointment as the Deputy Public Protector of the Republic of South Africa.

Hope the above is in order.

Yours faithfully,



Adv. Shadrack Tebeile

CURRICULUM VITAE
OF
SEKGAME SHADRACK TEBEILE

Personal details

Title : Advocate (Adv.)
Surname : Tebeile
Names : Sekgame Shadrack
Gender : Male
Home Language : Sepedi
Date of birth :
Nationality : South African
Race : Black
Criminal Record : None
Cell :
Email address :

PERSONAL SKILLS AND COMPETENCIES

Language abilities : English (Speak, Read, Write)
Sepedi (Speak, Read, Write)
Computer skills : MS Word, MS Excel, MS PowerPoint
Organisational skills : -Presented at University of Limpopo Law Week
Conference (September 2011).

-Presented at International Institute for Graduates held at University of California, Los Angeles, (May 2014).

-Presented a Public Lecture at the University of Cape Town (October 2015)

-Presented a Public Lecture at Makere University (Uganda, Kampala) (April 2018)

2023 : Doctor of Laws
University of Limpopo (In Progress)

2014 : Master of Laws
University of California, Los Angeles (May 2014)

2012 : Bachelor of Laws
University of Limpopo (June 2012)

Academic Achievements : - Awarded Attorneys Fidelity Bursary Award 2010 & 2011

- University of Limpopo, Merit Award 2011

-Awarded Sonke Health and Human Rights Fellowship to study Master of Laws (LLM) at University of California, Los Angeles (May 2013)

Professional Affiliation : - Admitted as an Advocate of the High Court of South Africa (2013)

- Admitted as a Counsel on the List of Counsel at the African Court on human and People's Rights (Arusha, Republic of Tanzania) [April 2029]

Professional Trainings : - Attended Third Training for Pro Bono Advocates at the African Court on Human and People's Rights held at the African Court on Human and People's Rights (Arusha, Tanzania) (August 2019)

- Attended Judicial Skills Training Course for Aspirant Judges organized by Law Society of South Africa (Mpumalanga, 2019)

- Attended Aspirant Judges Training Program organized by South African Judicial Education Institute (SAJEI) held in Kempton Park (January 2023)

[Nominated by Madondo AJP of KwaZulu Natal Division in November 2022]

Name of School Attended : Ngwanamala Secondary School

Highest Grade Passed : Grade 12

Year Passed : 2007

EMPLOYMENT HISTORY

Employer : **Office of Chief Justice**

Position : Acting Judge, Limpopo Division, Polokwane

Period : February 2023

Employer : **Tebeile Law Chambers (Private Practice)**

Position : Practising Advocate

Period : July 2014 to date

Employer : **University of the Witwatersrand, School of Law**

Position : Sessional Lecturer (Constitutional Law)

Period : July 2018 - December 2018

Employer : **Constitutional Court of South Africa**

Position : Law Researcher

Period : 01 July 2012 to 31 July 2013

Employer : **University of California, Los Angeles**

Position : Member of the Common Collaboration and Learning Environment Committee (CCLE)
(Unpaid position)

Period : September 2013 to May 2014

Employer : **University of California, Los Angeles**

Position : Member of the Faculty Committee **(Unpaid position)**

Period : September 2013 to May 2014

Leadership Roles and Community Involvement

2003-2022 : Coordinated Youth HIV/AIDS Awareness Campaign (2007)

: Coordinated schools' "STOP CRIME" campaign (2007)

: Coordinated schools cleaning campaign (2007)

: Coordinated successful Sekhukhune Learners Regional March to Department of Education (District Office) for extension of feeding scheme to include secondary schools [Learners participated] (2007)

- : Coordinated Career Exhibition in Fetakgomo Local Municipality (2008)
- : Coordinated Regional Career Exhibition in Sekhukhune Region (2009, 2010,2011)

- : University of Limpopo LLB Students Class Representative (2008, 2009, 2011)

- : University of Limpopo Youth Society Secretary 2010

- : Faculty Member of University of California, Los Angeles (2013-2014)

- : Member of Common Collaboration, Learning and Environment for University of California, Los Angeles (2013-2014)

- : Appointed as a Judge for Mock Trial Tournament for University of California, Los Angeles (2016)

- : Appointed as a Judge for University of Oxford's All Round Africa Media Price Moot Court Competition (February 2018)

- : Appointed as a Judge for University of Oxford's All Round Africa Media Price Moot Court Competition (February 2022)

Honors / Awards

- : Brothers For Life, Man of the Month Award Winner, July 2011 (Held by Brothers for Life and South African National AIDS Council)

: Brothers For Life, Man of The Year Award
Winner, November 2011

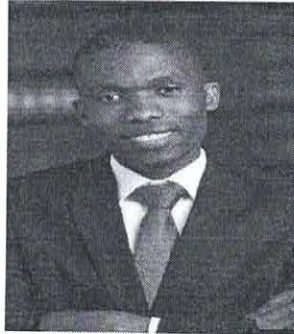
References

1. Name : Prof. Lara Stemple
Institution : University of California, Los Angeles School of Law
Position : Director of Graduate Studies
Contact :

2. Name : Mr Edwin Mampa
Institution : Mampa and Machethe Attorneys
Position : Director
Contact :

3. Name : Deputy Judge President Semenya
Institution : High Court of South Africa,
Limpopo Division
Position : Deputy Judge President
Contact :

PROFILE
OF
SEKGAME SHADRACK TEBEILE



Adv. Sekgame Shadrack Tebeile (Adv Tebeile) holds LLB from the University of Limpopo (2012) and LLM from the University of California, Los Angeles (2014) with specialization in Public Interest Law and Policy.

For more than a decade, Adv Tebeile has been involved in community development work in South Africa since his High School days at Ngwanamala Secondary School, Sekhukhune Distirct, Limpopo Province. He has been involved in community development programs since 2006 while he was at Ngwanamala Secondary School.

Adv Tebeile is the receipient of 2011 Man of the Year Award from Brothers For Life in recognition of his contribution to community development in South Africa. He is also a recipient of 2013 Sonke Health and Human Rights Fellowship to study for LLM at University of California, Los Angeles. Sonke Health and Human Rights Fellowship promotes public interests lawyering and trains the next generation of lawyers who will spearhead social justice efforts in Africa. It provides specialized legal training to two top law graduates from southern African law schools and promotes their careers as impact-oriented public interest lawyers through LLM studies at the University of California, Los Angeles.

In 2012-2013 he worked as Law Researcher at the Constitutional Court of South Africa where he clerked for the late Justice Thembile Skweyiya and Justice Johan Froneman respectively. Adv. Tebeile is not only practising as an advocate in South Africa, but he has since April 2019 been admitted as a Counsel on the List of Counsel at the African Court on Human and Peoples' Rights with its seat in Arusha, Republic of Tanzania. He has an exceptional record in human rights, public interest law and constitutional law. This is evident from his admission as a counsel at the African Court on Human and Peoples' Rights which is viewed as the Constitutional Court of Africa.

Whilst pursuing his LLM studies at the University of California, Los Angeles, he served as a member of Common Collaboration and Learning Committee representing the graduates' student body of the entire University to deal with challenges faced by students on learning, admissions and assessments. He also served as the Faculty Member between September 2013 and May 2014.

In December 2017 and February 2022 respectively, Adv Tebeile was appointed by the University of Oxford to serve as a Judge for 2018 and 2022 Africa All Rounds Media Prize Moot Court Competitions. This exemplifies Adv Tebeile's commitment to training of young lawyers across the African continent.

Adv. Tebeile has achieved a lot in his career as a patron of human rights and constitutional litigant, and with his humanitarian character, he has elevated South Africa's name in Africa by his admission as a counsel at the highest Court in Africa, namely the African Court on Human and Peoples' Rights. In July 2019 he was invited by the Office of the Honourable former President of the African Court on Human and Peoples' Rights, Hon. Justice Sylvain Oré as a guest during the Launch of the Inaugural Volume of the *African Court Law Report* (2006-2016) which took place on 04 July 2019 at the seat of the African Court on Human and Peoples' Rights in Arusha, Tanzania.

For his passion for constitutional law, Adv. Tebeile has previously taught constitutional law on part-time basis at the University of Witwatersrand in 2018.

In preparation for taking his responsibility as a Pro Bono Counsel at the African Court on Human and People's Rights (Arusha, Tanzania), in August 2019 Adv. Tebeile attended the Third Training for Pro Bono Counsel on the List of Counsel at the African Court on Human and People's Rights held at Kibo Hall, Arusha, Republic of South Africa. During the Third Training of the Pro Bono Counsel on the List of Counsel at the African Court on Human and People's Rights held in August 2019, Adv. Tebeile was commended by the Judges of the African Court on Human and People's Rights, including the former President of the African Court on Human and People's Rights, Honourable Justice Sylvain ORÉ for his commitment to advancement of human rights in South Africa and for making himself available to represent indigent clients at the African Court on Human and People's Rights.

In preparation for taking responsibility as a Judicial Officer, Adv Tebeile attended the Judicial Skills Training Course organized by the Law Society of South African in collaboration with National Association of Democratic Lawyers (NADEL) held in July 2019 at White River, Mpumalanga.

In November 2022 Adv. Tebeile was nominated by Madondo AJP of the KwaZulu Natal Division of the High Court to attend the Aspirant Judges Training Program organized by the South African Judicial Education (SAJEI) and the Office of Chief Justice. Adv. Tebeile attended the SAJEI Aspirant Judges Training Program on 23-27 January 2023 in preparation for taking responsibility as a Judicial Officer in South Africa.

Following the attendance of the SAJEI Aspirant Judges Training Program in January 2023, Adv. Tebeile was appointed as an Acting Judge of the High Court of South Africa,

Limpopo Division, Polokwane on 21-24 February 2023.

Adv. Tebeile has litigated on health and human rights cases in the Superior Courts in South Africa, including the highest court in South Africa, namely the Constitutional Court where he served as a counsel in inter alia, but not limited to the following cases (health and human rights cases):

1. *Moko v Acting Principal of Malusi Secondary School and Others* 2021 (4) BCLR 420 (CC)
2. *Limpopo Legal Solutions and Others v Vhembe District Municipality and Others* 2017 (9) BCLR 1216 (CC);
3. *Limpopo Legal Solutions and Another v Eskom Holdings Soc Limited* 2017 (12) BCLR 1497 (CC);
4. *Tebeila Institute of Leadership, Education, Governance and Training v Limpopo College of Nursing and Another* 2015 (4) BCLR 396 (CC);
5. *Limpopo Legal Solutions v Vhembe District Municipality and Others* 2018 (4) BCLR 430 (CC).

Because of his passion for health and human rights, he has presented number of Public Lectures on health and human rights at various universities in South Africa and outside South Africa at inter alia, the following universities:

- University of Cape Town (2015)
- Makerere University in Kampala, Uganda (2018)
- University of California, Los Angeles (2014)

Due to his selflessness and commitment to human rights and public interest litigation in attempt to improve the lives of the ordinary people of South Africa, Adv. Tebeile served in the above-mentioned matters at the Constitutional Court on *pro bono* basis in advancement of human rights course in South Africa.

Adv. Tebeile also litigates on human rights matters at the African Commission on Human and People's Rights situated in Banjul, The Gambia.

As part of his commitment to use litigation as a solution for African human rights challenges, Adv. Tebeile serves on pro bono basis as a Counsel on a number of human rights cases at the African Commission on Human and Peoples' Rights with its seat in Banjul, The Gambia which include, inter alia, the following cases:

1. ***Busisiwe Mkhwebane v Republic of South Africa*** (Communication 799/22)
2. ***Johannes Moko v Republic of South Africa*** (Communication 783/22)
3. ***Maselina Mathabela v Republic of South Africa*** (Communication 786/22)
4. ***Mashilo Alfred Sako v Republic of South Africa*** (Communication 784/22)
5. ***Ntombikayise Queen Ambe v Republic of South Africa***
(Communication 758/21)
6. ***Onai Muzore and Junior Munyaka v Republic of South Africa***
(Communication 787/22)
7. ***Phillip Nkosikhona Simelane v Republic of South Africa***
(Communication 774/21)
8. ***Selemabothokgo Magdeline Rachidi v Republic of South Africa***
(Communication 785/22)
9. ***Tebeila Institute v Republic of South Africa*** (Communication 788/22)
10. ***Tivoneleni Edmond Lubisi v Republic of South Africa***
(Communication 745/20)

In February 2023 Adv Tebeile was appointed as an Acting Judge of the High Court of South Africa, Limpopo Division, Polokwane.

Adv. Tebeile's areas of practice mainly, include the following:

- Human Rights Law.
- Constitutional Law.
- Administrative Law.
- Labour Law.
- Public Interest Law.

Summary of biography:

- He was born and raised at Ga-Nchabeleng, Sekhukhune District, Limpopo Province.
- He matriculated at Ngwanamala Secondary School in Sekhukhune District in 2007.
- In November 2011 he received “**Man of the Year Award**” from **Brothers for Life** for his valuable contribution to community development in South Africa.
- In 2012 he graduated for Bachelor of Laws (LLB) degree from the University of Limpopo.
- Between 2012-2013 he worked as a Law Researcher at the Constitutional Court of South Africa.
- In May 2013 he was awarded Sonke Health and Human Rights Fellowship to study for the Master of Laws at the University of California, Los Angeles.
- In 2013-2014 he worked as the Faculty Member of the University of California, Los Angeles.
- In May 2014 he graduated for Master of Laws from the University of California. He graduated his Master of Laws with several distinctions.
- In January 2016 he was appointed by Anderson School of Management as a Judge for the 2016 Mock Trial Competitions held at Santa Monica in California in USA.

- In December 2017 he was appointed by the University of Oxford in the United Kingdom to serve as a Judge for 2018 Africa All Rounds Moot Court Competitions.
- In 2015 he presented a Public Lecture at the University of Cape Town.
- In April 2018 he presented a Public Lecture at Makerere University in Kampala, Uganda.
- In July-December 2018 he was appointed as a Part-Time Lecturer for Constitutional Law at Wits School of Law.
- In 2019 he was admitted on the List of Counsel at the African Court on Human and People's Rights (Arusha, Republic of Tanzania).
- He is a practising as an Advocate in South Africa and on the List of Counsel at the African Court on Human and People's Rights in Tanzania.
- In March 2022 he was appointed by the University of Oxford in the United Kingdom to serve as a Judge for 2022 Africa All Rounds Moot Court Competitions.
- In February 2023 he was appointed as an Acting Judge of the High Court of South Africa, Limpopo Division, Polokwane.