

Per email

4TH September 2019

90 Plein Street

Parliament of South Africa

Cape Town

8000

Dear Mr V.Ramaano

NOMINATION LETTER FOR THE POSITION OF DEPUTY PUBLIC PROTECTOR: MR M J TOBA

I the undersigned,

DEON TSELE MOHALA (ID

Hereby nominate **Mr Moshoeshoe Jeffrey Toba (**

for the position of the Deputy Public Protector of the Republic of South Africa.

Yours Faithfully

Deon Tsele Mohala



Nominee Motivation

The nominee meets the requirements of section 2A(4)(c) where specialised knowledge and experience for a cumulative of 16 years was acquired in the administration of justice and public administration.

Resume of the nominee can succinctly be outlined as follows:

Articles of clerkship were entered into and the nominee engaged as candidate attorney at Symington and de Kok attorneys for the period September 2003 to December 2004. In that period the candidate gained knowledge in application of property law and deeds registration, administration of estates (deceased and insolvent), civil and commercial law litigation and corporate law.

Realising the lack of criminal law litigation at the firm, in January 2005 career progression continued at National Prosecuting Authority (NPA) where aspirant prosecutors' training was embarked upon. In July 2005 permanent placement was considered after successful completion of aspirant prosecutors' training. In 2007 the candidate was admitted to roll of advocates until 2010 admission to the roll of attorneys. The service to the South African people in the NPA continued until June 2010 after the nominee accepted a call from Legal Practitioners Fund of South Africa (LPFSA) in July 2010 to start a new unit which would focus on investigation and prosecution of delinquent attorneys who steal trust money. During August 2010 the candidate was appointed a part-time commissioner for Commission for Conciliation Mediation and Arbitration (CCMA). The appointment could not be accepted given the recent fulltime employment taken at LPFSA.

The role at LPFSA involved setting up a new unit, enabling strategic direction it would take to ensure risk mitigation that related to theft of trust money. Stakeholder relations were built with NPA in particular [Specialised Commercial Crimes Unit (SCCU), Assets Forfeiture Unit (AFU) & Complex Commercial Crime Component of National Prosecuting Service (NPS)]; South African Police Service's [Commercial Crime Investigation Unit (CCIU)]. Some of the stakeholders include Road Accident Fund (RAF); South African Banking Risk Information Centre (Sabric) and the then regional law society councils. Through collaboration with these stakeholders, seminars and invitations to train prosecutors and investigating officers were rolled, including information sharing and support to obtain evidence. Confidence was gained to successfully prosecute crimes arising from the concept of trust accounting and theft of trust money.

In June 2015 a calling for higher purpose was accepted to serve the South African people in the Tax Authority, namely: South African Revenue Service (SARS). The calling was in the Enforcement space as a Specialist where complex tax civil enforcement matters were investigated and litigated. Several high profile cases were

handled by the candidate until he accepted a Senior Manager: Legal Delivery within SARS Legal Counsel. The roles at SARS are outlined in the curriculum vitae.

The candidate has amassed specialised knowledge and experience, technical and behavioural to discharge a role of the Deputy Public Protector.

In terms of behavioural traits, the candidate cherishes the following values: Accountability, Equitability, Honesty, Trust and Integrity. I consider the nominee to possess above average interpersonal skills which are utilised to engage at various levels within civil society, corporate and other state organs.

Mr Toba is a conscious citizen who promotes and support constitutional obligations and recognise the rule of law. I have been exposed to various disciplines of law of which Constitutional and Administrative Law were applied. My role as public prosecutor and managing prosecutions unit of LPFSA, investigating and litigating in Tax sphere embedded trait of constitutionalism and fair, accountable and equitable process in discharging my duties.

In light of the above motivation, guided by the foundation of our constitution and law of general application to the office of the public protector, it is his vision that:


“The office recognises the rule of law and supremacy of the Constitution to foster investigation clothed with credibility and integrity and discharged without fear, favour or prejudice based on human dignity, equality and freedom”

ACCEPTANCE OF NOMINATION: DEPUTY PUBLIC PROTECTOR

I, Moshoeshoe Jeffrey Toba, an adult male resident at

100, hereby accept nomination by Deon Tsele Mohala
to the office Deputy Public Protector.

Signed in Pretoria on 4th day of September 2019.



NOMINEE

MOSHOESHOE JEFFREY TOBA

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PERSONAL DETAILS

Identity Number

PROFILE

Experienced in litigation, research and analysis. Solid background in various disciplines of the law, Labour Law, Company Law, Economic Offences, Contract Law, Property Law, Constitutional & Administrative Law, Law of Succession and Trusts and Tax Law. Admitted attorney who served articles of clerkship at Symington & de Kok Attorneys Bloemfontein and worked as a Public Prosecutor in the employ of the National Prosecuting Authority, Manager Prosecutions at Attorneys Fidelity Fund a Specialist: Enforcement Investigations in the employ of South African Revenue Service (SARS) and currently Senior Manager: Legal Delivery Support & Dispute Resolution (SARS). Trained in Environmental Law by the Justice College of South Africa in conjunction with Environment Agency of England & Wales.

A formidable lawyer, jurist and a team player who on continuous basis, shares knowledge and skill and simultaneously learn from other team members. Diversified human capital in a Senior Manager role in the Tax Law and Administration, General Litigation and Corporate Governance, adequately versatile to manage at senior level.

EDUCATIONAL QUALIFICATIONS

- 1992 - 1995 Senior Certificate at Marallaneng Secondary School
Subjects: English, Afrikaans, Sesotho, Biology, Physical Science, Mathematics
- 1996 **N4 NATIONAL CERTIFICATE: Management Assistant**
Bloemfontein Technical College (Now Motheo FET)
Subjects: Computer Practice, Management Communication, Information Processing and Office Practice

PROFESSIONAL QUALIFICATIONS

- 2004 **LLB: Baccalaureus Legum (Bachelor of Laws) - University of Free State**
Dissertation: The Role of Road Accident Fund in South African Social Security System.
- 2000 **B IURIS: Baccalaureus Iuris - Vista University**
Major Subjects: Contract and Law of Delict, Property Law, Constitutional & Administrative law, Mercantile Law,

Interpretation of Statutes, Criminal law & Procedure, Civil Procedure, Banking Law

- 2011

PROGRAMME IN FORENSIC AND INVESTIGATIVE AUDITING - University of South Africa

Subjects: Fraud Prevention, Fraud Detection, Fraud Investigation, Forensic and Investigative Audit Reporting

COMPUTER LITERACY SKILLS

- MS Word, MS Excel, MS Access, MS Outlook, Internet, Power-Point

LANGUAGES

Language	English	Afrikaans	Sesotho	isiXhosa
Speak	Good	Good	Good	Good
Write	Good	Good	Good	Fair
Read	Good	Good	Good	Fair

WORK EXPERIENCE

July 2017: Senior Manager: Legal Delivery Support & Dispute Resolution

Primary responsibilities

The purpose of this current role is to provide support and input in the management of Legal Delivery in all the regions countrywide. The focus is on revenue matters and institution of legal proceedings in the Lower and Higher Courts. I exercise oversight on the efficient utilisation of private counsel for appeals and urgent interdicts, review or declaratory order applications.

I am responsible for 7 direct reportees who include two legal managers, 1 professionals and admin support staff based at Head Office. The role is graded at Tactical Implementation just below Strategy Alignment and Enablement which are in the ambit of Group Executive and Executive.

I ensure development and implementation of multiple practices in alignment with operational policy and procedural frameworks. One of the achievements under my control is the implementation and development of Standard Operating Procedure for application of legal costs and payment of legal fees. There had been inefficiencies during transitional period which created backlog. Streamlining of processes and cutting number of signatories proved to be an efficient way to adopt. Implementation started 1 July 2018 and accolades were received after tracking reports prepared weekly and monthly were produced.

I also direct control and coordination to optimize budgeted resources to meet specific objectives and deliver agreed results and productivity requirement. I discharge this responsibility by running three cost centers which service the four regions and Head Office component.

In terms of governance I am responsible to implement risk and compliance policy in my practice areas to identify and manage risk exposure liability. In managing and advising on translation of policy and legislation in a specific functional area, I sit as a member on various committees and supervise other professional staff on similar roles.

Jun 2015:

Specialist: Enforcement Investigation SARS Head Office

Primary responsibilities:

I conducted expert Financial Investigations with a Multi-Disciplinary Team that includes accountants and auditors in view of raising tax assessments. My role is to identify, analyse and resolve high risk, high revenue cases for audit, debt and criminal investigations, collect, analyse and interpret relevant internal and external information and facts effectively towards reaching valuable conclusions and outcomes to ensure the identification of high risk, high revenue yield cases for audit and decisions relating to when and if to criminally prosecute offenders.

The role required utilisation of understanding in functional area, legislation and mandate to make recommendations to the functional strategy and provide expert advice and guidance to staff within SARS on accounting and auditing principles, standards, procedures and applications as well as in taxation, customs and excise matters. I managed high-risk complex investigations on project basis, as project leader or member and continuously contribute to the upgrading of SARS Staff knowledge and skills by acting as mentor to meet the changing requirements of the job.

I liaised with management within SARS with respect to findings and recommendations for any improvements or adjustments in procedures, actions, strategies, target setting. I also monitored and promoted the application of governance and required legal compliance in the context of policy and processes supervising the work done by colleagues placed under my mentorship. I analysed risk with the aim to recommend legal intervention and/or suggestion of tax education to curb risk. For enforcement purpose I managed and drove Litigation matters in High Court and the Tax Court

2010 July:

Manager: Prosecutions – Attorneys Fidelity Fund

Primary responsibilities:

I coordinated criminal prosecution process of attorneys suspected of stealing trust money. I established the prosecution unit at the Attorneys Fidelity Fund for this purpose managed a team of five people in the prosecutions & legal recoveries unit, four professionals and one administrative support.

I drafted legal opinions as and when the need arose, aimed at legislative change and interpretation of applicable pieces of legislation. I contributed in particular to the Judicial Matters Amendment Act 42 of 2013 where Attorneys Fidelity Fund for the first in its 70 years of existence, obtained statutory private prosecution powers. This development was carried into the Legal Practice Act now in the implementation phase [see *De Rebus* 2014 (Sept) DR 23.

I built and maintained stakeholder relations in the criminal justice system where I co-founded and appointed convenor of the Joint Stakeholder Committee on Attorneys Fidelity Fund Matters – consisting of Deputy Directors of Public Prosecutions from SCCU and AFU of NPA and Senior Police Representatives from the Hawks, Legal Services, Detective Services and HRD). Among other things its terms of reference ensured facilitation, support and training initiatives to enhance successful prosecution of attorneys who are suspected of stealing trust money including preparation of the training material.

As and when it was necessary I assisted with investigation and assessment of claims against the Fund which arose from various disciplines of law that form cause of action i.e conveyancing (property) transactions, estates, commercial transactions, Road Accident Fund).

I prepared operational reports to Management Committee, Executive Committee of the Board and to the Board of Control. Where the Council of the Law Society commissions an investigation in terms of section 59 of the Attorneys Act I conducted Trust Accounts' investigation as per the complaint lodged by against the practitioner and produced a report tabled to the said Council (due to sensitivity and confidentiality clause I am unable to disclose names).

I drafted and managed admission of liability undertakings and payment agreements entered into by defaulting attorneys and monitored such payment agreements. I supervised criminal (in terms of the Criminal Procedure Act 51 of 1977 and the Prevention of Organised Crime Act 25 of 1999) and civil recoveries in respect of costs relating to attorneys strike off orders and paid claims. In anticipation of the Supervisory Body status to be brought by Legal Practice Act I represented the Attorneys Fidelity Fund at Financial Intelligence Centre Enforcement Forum.

2005 January: Aspirant Prosecutor, Head Control Prosecutor, Advanced District Court Prosecutor - National Prosecuting Authority

Primary responsibilities:

I prosecuted common law & statutory offences and guided criminal investigation by the police. I prepare legally opinionated reports to Director Public Prosecutor for decisions to prosecute on matters which fell within the jurisdiction of the High Court and required transfer to that court.

I handled administrative work of the one man and attended to handling inquests. I also dealt media queries in respect of high profile cases in the district within communication policy of the NPA.

I developed interest in prosecuting complex commercial offences in the district court including the weekly Tax related matters and the spark for forensic investigation started at that stage. The offences ranged from fraud, theft corruption and money laundering. I prepared cases for court through focused and purpose investigation drafted charge sheets and other court documents more complex in nature. I relieved in District Court Control Prosecutor and Regional Court Prosecutor positions.

2003 September: Candidate Attorney – Symington & de Kok Attorneys

Primary responsibility:

I prepared deeds for lodgement at Deeds Office in respect of compliance the Deeds Registries Act, Sectional Titles Act, Trust Property Control Act etc and handled transfer duty applications at the South African Receiver of Revenue (SARS).

I handled applications for properties due for registration that include clearance certificates, building clauses certificates, zoning certificates. Deleted notes on deeds up for registration at Deeds office.

I handled motion court applications in the Magistrate Court after preparation and draft of the necessary processes, preparing summons and dealt with further Particulars in action proceedings and entering notices to defend actions where mandate is to defend. I draft and filed pleadings until they closed.

I dealt with deceased and insolvent estates from reporting the estate until the preparation of Liquidation and Distribution account and attending to interrogations and proving of claims in insolvency matters. I also dealt with various commercial contracts, drafting and interpretation, inclusive of leases, sale of business, cessions, and acknowledgement of debt

LEADERSHIP ROLES

Student Representative Council Vista University Bloemfontein

Deputy General Secretary 1998 – 2000

Vista University Senate and Law Faculty Board

Member 1999- 2000

Vista University Institutional Forum (Former Transformation Forum)

Member 1999- 2000

Law Students Society

Deputy Chairperson 1998- 1999

Corpus Christi Catholic Church Pastoral Council Bloemfontein

Deputy Secretary and Finance Committee Member 2007 -2010

REFEREES

1. Mrs Mariena Lani Opperman

Judge of the High Court of South Africa – Western Cape Division

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2. Shadrack Davis Maile

Board Secretary Attorneys Fidelity Fund of South Africa

3. Pieter Engelbrecht

Executive: Executive Illicit Economy

South African Revenue Service