
**AFFIDAVIT IN THE SECTION 194 INQUIRY INTO THE REMOVAL OF THE
PUBLIC PROTECTOR, ADV B MKHWEBANE**

I, the undersigned,

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RAMALAMULAM BALDWIN NESHUNZHI

do hereby make oath and say that:

1. I am an adult male and was initially employed in the capacity as the Senior Manager responsible for security at the Office of the Public Protector ("OPP") on 10 April 2017.
2. The contents of this affidavit are true and correct and fall within my personal knowledge, unless otherwise stated or clear from the context.
3. I have a diploma in personnel management, a B.luris degree, a BTech in Human Resource Management and a Masters degree in Business Leadership. I held the position as General Manager at SA Post Office ("SAPO") from July 2003 to May 2012.
4. During the period 2012 to 2017 I was involved in private business doing commodities trading and had been working for myself until I applied for the aforementioned at the OPP.

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5. Though in my direct reporting line I reported directly to the Chief Executive Officer (“CEO”), I also reported to the Public Protector (“PP”). My security clearance was top secret, which certificate was provided during May 2017. It was a requirement in the advertisement for the post that such security clearance would be required. There are delays as a consequence of the internal processes at the State Security Agency (“SSA”) who is the agency responsible for issuing such certificates. Pending such certification I had to sign a declaration of secrecy.

6. My functions included the following:
 - 6.1. Develop and Implement an organisational structure for Security Management Unit (SMU). One of the core function was to ensure all employees were security vetted.

 - 6.2. Ensuring security measures at all OPP outlets and at all nineteen offices and that the security measures in place were in line with minimum security standards.

 - 6.3. Requiring a security assessment at all offices and make recommendations on how security was to be improved.

 - 6.4. Attending to security breaches that could happen (and in anticipation had developed policies and regulation for security management).

 - 6.5. Attending to a new area being information security and to make sure that the organisation’s IT information was secure.

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- 6.6. Ensuring that the ITC (Information Technology Communications) was in line with the Minimum Information Security Standards, being the national information security policy in place since December 1996.
- 6.7. Managing the security companies contracted to the PP Offices and provide security advice directly to the PP.
7. There was also a security manager appointed and a security programme administrator, both of whom reported to me.
8. There are two issues that in my view were interrelated to which I draw specific attention.
9. In 2018 I was alerted by the PP and the then Acting Chief Operating Officer (“CEO”), Nthoriseng Motsitsi, of concerns that the system which regulated leave and ancillary matters was not sufficiently secure. There were concerns that the system was being manipulated to reflect a reversal of leave days or leave credits. In other words, that the system was reflecting that people were at work even though they were on leave. It was suspected that there was a fraudulent practice ongoing. I commenced investigation in respect hereof, in particular in conjunction with Human Resources, who was the custodian of the system, in order to make it more secure.
10. For purposes of doing this investigation I was of the view that it was necessary to speak to the people who at that stage were suspected of having been the recipients or complicit in this fraudulent taking of leave, including the individual

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who was the super user of the system and who had been deemed to be colluding with those who had been suspected of abusing the leave.

11. I communicated with the Head of IT and could not find anything amiss or wrong in the system. But in my view the manner in which I dealt with it was the impetus that resulted in a breakdown in the relationship with the PP. I was told that I could not handle the information and was to be sent for training to the SSA. On enquiry as to what type of training, no further details were provided, but I was told to leave the office from 14 February 2018, ostensibly to go for training. I was given a letter to that effect – which I no longer have in my possession – and was informed to arrange the training myself.
12. The PP informed me that I should stay home. I only returned to the office when training was confirmed.
13. In my view this was tantamount to a suspension, albeit that I never received a letter of suspension. I was told to stay away from work though the training only commenced in July 2018, when there was a sufficient number of persons to train.
14. In fact, there was by that stage a newly appointed CEO, Mr V Mahlangu, who had to be coerced to allow one of the subordinates at the OPP also to attend the training in order for the numbers to be sufficient for the training to commence. This was a security advisor management course.

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15. Thereafter, I felt that there was a sense of animosity on the part of the PP – the cause of which I did not know, though it may also be linked to an event that had occurred subsequently.

16. In this regard I am referring to an incident that related to documents that had been delivered by the President's Office. I had not been called to Security when such documents arrived. Another employee who used to work in the private office of the PP and was subsequently transferred to Security happen to come upon the persons from the SSA who was delivering documentation to the PP's Office from the Presidency and he called up to the OPP, indicating that such persons were here to give documentation. A person from private office came to security to collect the documents. At the time I remained unaware hereof. It subsequently emerged that the information that had been delivered appeared in the media and it was suspected that this had been leaked at the OPP from the documents that had been delivered. I was asked to account as to the leak and how it was allowed to occur.

17. I followed the trail of the documentation through the OPP from its arrival to when it was put into the safe in the private office and then signed over to the Chief Investigator at the time, Mr Rodney Matabogo, who informed me that he had worked on the documentation. After several interviews I concluded that the leak had not happened at the PP's Office. It emerged that there was actually no leak and that when the documents had been delivered, the President had issued a media statement about the documents being provided to the OPP.

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18. It was quite apparent to me that it appeared that the relationship was now deteriorating. I had the sense that there was a feeling that I was not doing what I was supposed to be doing in supporting the work of the OPP.
19. There was an expectation that I would be the PP's eyes and ears in the office, and I was letting her down. It was relayed to me by the PP that there was an atmosphere of some resistance to her at the office and I was asked to ascertain how such could be overcome. I then suggested to her that what I had gleaned from persons in the office was that she was not sufficiently talking to people and suggested that she spend one afternoon, perhaps going around greeting people and making herself more accessible. I am not sure if she undertook the exercise of the walk about in the building.
20. I subsequently received a telephone call from Mr Arthur Fraser ("*Mr Fraser*"), and informed that I was not providing the support to the PP as I was hired to do. He advised that the PP was complaining about my lack of support. This occurred during the end of 2019. At the time I did not know how precisely I was said to have failed in my job as this was not directly relayed to me by the PP. I did not know how I failed to support the PP. As far as I was aware, there was no security issues and when the PP went on roadshows, I ensured that all the arrangements were completed and I fulfilled my responsibilities.
21. Mr Fraser was known to me from previous context in which I had come across him, especially when I was dealing in commodities during the period in 2012 to 2017 and he was in the private sector – as far as I was aware – trading as Resurgent Risk Management. The only time I can recall meeting him at the

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OPP was when he came to attend a meeting, accompanied by James Ramabulana and Mahendra Moodley, both of the latter were at the SSA. I do not know the details of such meeting.

22. I completed the aforementioned course in December 2018. What was of concern at that stage was obtaining a top secret security clearance for the then Acting CEO, Mr V Mahlangu, from the SSA. However, despite my best endeavours, I was not able to do so. To the best of my recollection, this related to charges emanating from his previous employment. But until the matter relating to the charges had been finalised, the SSA was not prepared to provide a top secret clearance.
23. Until that stage I was reasonably successful in obtaining the requisite security clearances from SSA. There were then pending two security clearances at that stage. The one was obtained for another employee but Mr Mahlangu's was refused.
24. The Public Servant's Association (trade union) raised concerns about his continued employment without the requisite security clearance and it was suspected that I had leaked the information to them about this refusal. However, the only person that I had spoken to about the top secret security clearance having been declined was the PP. After the Union had raised the issue as to the secret security clearance having been refused and the then Acting CEO enquired from me in respect thereof, I did not relay any information to him as it was not my place to do so, but the PP.

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25. I can only surmise that when the matter was raised by the then shop stewards, Isaac Matlawe and Tebogo Kekane, that the PP had been apprised by somebody that I had so informed those persons. But I had not done so and knew nothing about it. I knew immediately that I was potentially going to be suspended and in fact on 21 January 2019 received a letter demanding explanation about the leaking of the confidential information of the CEO. I provided the response sought however I was placed on the "on garden leave" with effect from 14 February 2019. This ensued until July 2019 whilst an investigation was being conducted. I was interviewed in relation hereto in April and my computer was taken by the persons so engaged to investigate the matter. Nothing could, of course, be found on my laptop as I had not done anything and it was returned when I resumed my duties in July 2019.
26. I had actually been now placed on "suspension" for a second time without it actually being a proper suspension and it had had a devastating effect on me. For that reason I approached Human Resources (Mr Tyebele) and enquired as to the outcome of the investigation. Neither then then Acting CEO, Mr Mahlangu, nor Mr Tyebele reverted to me. When I asked Mr Mahlangu in relation hereto he indicated that he would first talk to the PP about it, but thereafter it was business as usual.
27. On 31 July 2019 I was informed that the OPP had embarked in a process of moving staff to where their expertise was needed most for purposes of improving the performance of the institution. Further, that a gap had been identified in the CSM Branch and that pursuant to a consultation that had taken place between the Executive Manager: Corporate Services, Senior Manager:

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Human Resources and myself on 29 July 2019, I was transferred from the position of Senior Manager: Security Management to Senior Manager: Intake, Assessment and Customer Service in the CSM Branch. It was identified that this was a critical function in the institution responsible for assessment of complaints and that my legal qualifications and management experience would be of outmost importance for this role. The transfer was effective from 1 August 2019. I signed and accepted transfer and terms and conditions as set out in the letter. The letter is annexed marked "RBN1".

28. I did not apply for this position but was simply informed thereof.
29. Whilst at that stage I had no experience in respect of PP complaints and customer services, I did previously have experience about setting in place processes and customer problem solving systems in my past employment. I reported in this position to Ms Motsitsi, in her capacity as Executive Manager: CSM
30. My task includes ensuring the development of memorandum of understanding with various stakeholders; assessing complaints through various branches; and the customer complaints unit nationally would then report to me.
31. I was not informed that this was done pursuant to any recommendation made by any external consultant or for any other reason than reflected in the aforementioned letter.
32. The security post for which I was actually employed and which was vacated; was then filled by Mr Amos Skosana.

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33. Prior to my leaving the security position I had sought SSA's assistance for purposes of the development of a proper case management system at the OPP as this was needed. As far as I was concerned the SSA had the requisite expertise, given that they were the custodians of information in the State and in fact worked with SETA and vetted all the licences. One of persons from the SSA involved was Mahendra Moodley at the SSA Offices. I understood him to be an expert in IT, and in fact, some "whiz kid" in that field.
34. Mr Neels Van der Merwe and others accompanied me to the SSA Offices at the time and modules were then devised. This did not come to fruition by the time I was suspended a second time, and I don't know what eventually transpired in relation hereto.
35. I regarded the manner in which I suspended on both occasions to constitute unfair labour practices as due processes were not followed but did not do anything about it in relation to taking it up in any formal channels. The reasons for steps being taken against me was not fully explained. I did not take it up formally, but in my view the PP failed to conduct a proper oversight role in respect of ensuring that I was treated in such manner as she was aware of what was transpiring. I would say that the PP was aware of what was happening as Mr Mahlangu was reporting to her and was channelled to do so as she fell into disfavour with the shop stewards and when it was discussed and approached her / Human Resources to ascertain why Mr Mahlangu was hired, matters deteriorated.

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36. At the very least I should have been expressly told that the investigation had exonerated me from any involvement in what was regarded as a leakage of information. I would have expected that if there was an assessment of any IT equipment in respect of the leakage investigation, that it would have been done by SSA as it had the capability to do such checks on the information systems and computer systems whilst that investigation was ongoing. But I was not privy to the decisions taken as I was a “*suspect*” in the leakage and my views were not sought as to how this investigation should be conducted or who should conduct such investigation.
37. On 1 June 2020 the PP approved my transfer from Complaints and Stakeholder Management (“CSM”) to Provincial Investigations and Integrations (“PII”) – Coastal Branch. The terms and conditions of service as contained in my initial appointment remained the same as per this letter, a copy of which is attached, marked “RBN2”, and which I signed on 3 June 2020, reflecting my acceptance of the terms and conditions of the transfer.
38. At the time of my transfer Adv Fourie was the only person on that Branch,¹ and there was a need to capacitate the Branch to ensure that it could fulfil its obligations.



¹ The PII (Coastal) Branch oversees the branches of Eastern Cape, KwaZulu-Natal Western Cape and Northern Cape.



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RAMALAMULAM-BALDWIN
NESHUNZHI

I certify that the above signature is the true signature of the deponent and that he has acknowledged that he knows and understands the contents of this affidavit which affidavit was signed and sworn to before me in my presence at Pretoria on this 30 day of **JUNE 2022**, in accordance with Government Notice No R1258 dated 21 July 1972, as amended by Government Notice No R1648 dated 19 August 1977, as further amended by Government Notice No R1428 dated 11 July 1980, and by Government Notice No R774 of 23 April 1982.



COMMISSIONER OF OATHS

Thembinkosi Sithole
COMMISSIONER OF OATHS(RSA)
ADMITTED ATTORNEY
175 LUNNON STREET
Hillcrest Office Park
Pretoria
081 489 8829

"1521"
RBN 1



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SOUTH AFRICA

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MUSIRHELELI WA VANHU • MUTSIRELEDZI WA TSHITSHAVHA
OPENBARE BESKEMER • UMKHUSELI WOLUNTU • UMWIKELI WOMPHEKATHI
UMVIKELI WEMPHAKATSI • UMWIKELI WESITJHABA

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Ephraimk@pprotect.org

Public Protector South Africa @PublicProtector

Mr Baldwin Neshunzhi

Senior Manager: Senior Manager: Security Management

Public Protector South Africa

Pretoria

Dear Mr Neshunzhi

**TRANSFER FROM SENIOR MANAGER: SECURITY MANAGEMENT TO SENIOR
MANAGER: INTAKE, ASSESSMENT AND CUSTOMER SERVICE (IACS)**

1. The institution has embarked in a process of moving staff to where their expertise are needed most. This is intended to improve the performance of the institution.
2. A gap has been identified in the Complaints and Stakeholder Management Branch.
3. Pursuant to the consultation that has taken place between the Executive Manager: Corporate Services, Senior Manager: Human Resources and yourself on 29 July 2019, please be advised that you are transferred from the position of Senior Manager: Security Management to Senior Manager: Intake, Assessment and Customer Service in the Complaints and Stakeholder Management Branch.
4. This is a critical function in the institution as it is responsible for assessments of complaints.
5. Your legal qualification and management experience will be of utmost importance for this role.

TRANSFER TO POST OF SENIOR MANAGER: IACS

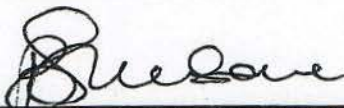
6. Details of your new job are as follows:

Job Title: Senior Manager: Intake, Assessment and Customer Service
Level: 13
Reporting to: Executive Manager: Complaints and Stakeholder Management
Salary: Unchanged

All other conditions of your employment will remain the same. Your transfer will be effective from 01 August 2019.

I wish you all the best in your new responsibilities and I hope that you will continue to serve the institution with dedication.

Attached please find the job profile of the Senior Manager: Intake, Assessment and Customer Service.



ADV BUSISIWE MKHWEBANE
PUBLIC PROTECTOR
DATE: 31/07/2019

Please indicate your acceptance of the terms and conditions of the transfer by signing below and return to the HR Division.

I, R. B. Neshunzhi, hereby accept the transfer and terms and conditions as set out in this letter.



Mr Baldwin Neshunzhi
Date: 2019-08-01

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**Enquiries: T Khunou
Tel: 012 366 7031**

Mr Baldwin Neshunzhi
Public Protector South Africa
HEAD OFFICE, PRETORIA

Dear Mr Neshunzhi

**TRANSFER FROM COMPLAINTS AND STAKEHOLDER MANAGEMENT (CSM) TO
PROVINCIAL INVESTIGATION AND INTEGRATION (PII) - COASTAL BRANCH**

This letter serves to confirm that I have approved your transfer from Complaints and Stakeholder Management (CSM) to Provincial Investigation and Integration (PII) – Coastal Branch as indicated below;

Position: Senior Manager: Provincial Investigation - Coastal

Current salary: R1 266 749

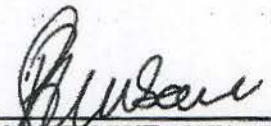
OSD salary R1 447 716

Effective Date: Immediately

Kindly note that all other terms and conditions of service as contained in your initial appointment letter remains the same.

I trust that you will continue to serve the Public Protector South Africa with due diligence and commitment.

Best wishes


**ADV BUSISIWE MKHWEBANE
PUBLIC PROTECTOR
DATE: 01 June 2020**

Transfer to PII (Coastal): Mr Baldwin Neshunzhi

Please indicate your acceptance of the terms and conditions of this transfer by signing below and returning the letter to Mr Tshepo Khunou in the HR Division.

I, R. B. Neshunzhi hereby accept the conditions and terms of the transfer as set out in this letter.


MR BALDIWN NESHUNZHI
DATE: 2020-06-03

Transfer to PII (Coastal): Mr Baldwin Neshunzhi



TRANSFER MEMO

TO: PUBLIC PROTECTOR
ADV BUSISIWE MKHWEBANE

FROM: HUMAN RESOURCES MANAGEMENT & DEVELOPMENT
DIVISION

SUBJECT: REQUEST FOR APPROVAL OF TRANSFER OF MR
BALDWIN NESHUNZHI FROM CSM TO PII (COSTAL)

DATE: 22 MAY 2020

1. PURPOSE

- 1.1. To request the Public Protector to approve the transfer of Mr Baldwin Neshunzhi from CSM from PII (Costal)
- 1.2. To sign the attached transfer letter

2. BACKGROUND

- 2.1 The PII (Costal) Branch oversees four Provinces, namely: Eastern Cape, KwaZulu-Natal, Western Cape and Northern Cape.
- 2.2 Adv Fourie is currently the only person in the Branch, there is therefore a need to capacitate the Branch to ensure that it is able to fulfil its obligations towards achieving the strategic objectives of the Public Protector South Africa.
- 2.3. It is proposed that, Mr Baldwin Neshunzhi, who is currently Senior Manager: Intake, Assessment and Customer Service, be transferred to PII (Coastal) as the Senior Manager effective 1 June 2020.
- 2.4 The work of Mr Neshunzhi in CSM will be moved to Ms Kgalalelo Masibi, except assessments which will be done by the Executive Manager.
- 2.5 Mr Neshunzhi was consulted on the transfer by Ms Motsitsi first and then later by the Senior Manager: Human Resources on 12 May 2020.

- 2.6 Mr Neshunzhi accepted the transfer and he is currently preparing a handover report to the Executive Manager: CSM and Ms Kgalalelo Masibi who will be taking over most of his responsibilities.
- 2.7 It should be noted that the position of Senior Manager: PII (Coastal) is an OSD post, therefore the salary of Mr Neshunzhi should be adjusted to reflect that.
- 2.7 It is therefore proposed that the Public Protector approves the transfer of Mr Neshunzhi with effect from 1 June 2020.

3. POLICY IMPLICATIONS

- 3.1. Clause 7.1 of the Transfer Policy under Employer initiated transfer states that *'The Public Protector may transfer any employee to perform specified tasks or functions on a temporary or permanent basis anywhere in the Public Protector South Africa'*.
- 3.2. Clause 7.2 of the said policy states that *'The employee(s) concerned should give his/her consent to such a horizontal transfer or deployment. An employee shall not in any circumstance be a subject of victimisation by virtue of him/her rejecting the transfer initiated by an employer. However, valid reasons for rejecting a transfer have to be provided for consideration and decision making by the employer'*

4. FINANCIAL IMPLICATION

- 4.1 Mr Neshunzhi will be moving to an OSD post, therefore there will be financial implications as follows:
Current salary: R1 266 749
OSD salary: R1 447 716
- 4.2 Financial implications for transferring Mr Neshunzhi are R180 967 per annum.

5. RECOMMENDATIONS

It is requested that the Public Protector,

- 5.1 Approves the transfer of Mr Baldwin Neshunzhi from CSM to PII (Coastal) as Senior Manager with effect from 1 June 2020.
- 5.2 Notes that the Senior Manager post in PII (Coastal) is an OSD post.
- 5.3 Notes the financial implications for the transfer of Mr Neshunzhi.
- 5.4 Sign the transfer letter of Mr Neshunzhi.

5. RECOMMENDATIONS

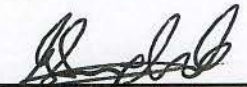
It is requested that the Public Protector,

- 5.1 Approves the transfer of Mr Baldwin Neshunzhi from CSM to PII (Coastal) as Senior Manager with effect from 1 June 2020.
- 5.2 Notes that the Senior Manager post in PII (Coastal) is an OSD post.
- 5.3 Notes the financial implications for the transfer of Mr Neshunzhi.
- 5.4 Sign the transfer letter of Mr Neshunzhi.



MR TSHEPO KHUNOU
ASSISTANT MANAGER HRM & D
DATE: 22-05-2020

Recommendations in paragraph 5 above Supported/Not-Supported/Comments-



MR GUMBITYELELA.
SENIOR MANAGER HRM & D
DATE: 25-05-2020

Recommendations in paragraph 5 above Supported/Not-Supported/Comments-



MR FUTANA TEBELE
ACTING EXECUTIVE MANAGER: CORPORATE SERVICES
DATE: 25/05/2020


5. RECOMMENDATIONS

It is requested that the Public Protector,

- 5.1 Approves the transfer of Mr Baldwin Neshunzhi from CSM to PII (Coastal) as Senior Manager with effect from 1 June 2020.
- 5.2 Notes that the Senior Manager post in PII (Coastal) is an OSD post.
- 5.3 Notes the financial implications for the transfer of Mr Neshunzhi.
- 5.4 Sign the transfer letter of Mr Neshunzhi.

Recommendations in paragraph 5 above Supported/Not Supported/Comments

Extra funding to be from Savings of the CEO & COO Position


MR TSHIAMO SENOSI
ACTING CHIEF FINANCIAL OFFICER
 DATE: *25/05/2020*

Recommendations in paragraph 5 above Supported/Not Supported/Comments


MS YALEKILE LUSIBANE
ACTING CHIEF EXECUTIVE OFFICER
 DATE: *26/05/2020*

5. RECOMMENDATIONS

It is requested that the Public Protector,

- 5.1 Approves the transfer of Mr Baldwin Neshunzhi from CSM to PII (Coastal) as Senior Manager with effect from 1 June 2020.
- 5.2 Notes that the Senior Manager post in PII (Coastal) is an OSD post.
- 5.3 Notes the financial implications for the transfer of Mr Neshunzhi.
- 5.4 Sign the transfer letter of Mr Neshunzhi.

Recommendations in paragraph 5 above Approved/~~Not~~
~~approved/Comments~~



ADV BUSISIWE MKHWEBANE
PUBLIC PROTECTOR
DATE: 28/05/2020