
AFFIDAVIT

I, the undersigned

JOHANNES (JOHANN) HENDRIKUS VAN LOGGERENBERG

do hereby make oath and say:

- 1 The contents of this affidavit are, unless the context indicates otherwise, within my personal knowledge and, to the best of my belief, are true and correct.
- 2 Where I make submissions of law I do so on the advice of my legal representatives, whose advice I accept.
- 3 I depose to this affidavit as a former employee of the South African Revenue Service ("**SARS**"), in terms of the Protected Disclosures Act, 26 of 2000 as amended, however inadequate and underdeveloped it may be, and I invoke all relevant and necessary protection provided to me in this law, the common law and the Constitution.
- 4 I submit this affidavit in the interests of justice and that of the South African public in pursuit of a better society for all.
- 5 What I depose to in this affidavit has never been as a result of my own choice but rather because of State Capture, various externally motivated events, situations and actions taken by various people which has had a direct effect on my rights, those of other innocent persons, state departments and the nation as a whole. At

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all times I strived, within the limits and constraints upon me as an individual, to seek to serve justice and the interests of the public. I continue doing so now by way of submitting this affidavit to Parliament following a public invitation to do so.

- 6 This affidavit is therefore submitted specifically pursuant to the public invitation by the Parliament of the Republic of South Africa for any person willing to provide evidence in respect of the conduct of Ms Busisiwe Mkhwebane (“**Ms Mkhwebane**”) who serves as the current Public Protector (“**PP**”), in relation to an inquiry in terms of Section 194 of the Constitution of the Republic of South Africa. For ease of reference and record purposes, I attach hereto as “**JVL1**” a letter addressed by my attorneys in this respect, as well as “**JVL2**” which was a reply thereto.

BRIEF BACKGROUND

- 7 It is common cause between Ms Mkhwebane and I:
- 7.1 that I was an employee of SARS between November 1998 and February 2015 where I served in various capacities over the years from age 29 to 44, starting at a relatively junior level, and climbing the ranks over these years;
- 7.2 that my last job title at SARS prior to my resignation was Group Executive: Tax and Customs Enforcement Investigations: Projects, Evidence Management and Technical Support and that I managed five SARS investigative units in this role at the time of my resignation;
- 7.3 that I came to know of by way of hearing on the radio that the PP had issued Report No. 36 of 2019/20 dated 5 July 2019 following what I believe to be “complaints” by the Economic Freedom Fighters (“**EFF**”) political party and

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current and/or former South African Revenue Service (“SARS”) officials and law enforcement and state intelligence and private intelligence operatives that are masquerading as “anonymous complainants”;

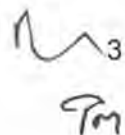
7.4 that I then read the PP report as soon as it became available on the internet and then sought legal advice relating to the PP report;

7.5 that the Minister of Public Enterprises, Honourable Mr Pravin **Gordhan** (“**Mr Gordhan**”), and former SARS Commissioner Mr Oupa Magashula (“**Mr Magashula**”) and former Deputy SARS Commissioner Ivan Pillay (“**Mr Pillay**”) had brought various applications with respect to the PP Report and I followed these on livestream on the internet and on television to the extent they were being broadcast to the public;

7.6 that central to the findings in Report No. 36 of 2019/20 dated 5 July 2019 is an investigative unit that was established within SARS in relation to which Ms Mkhwebane, in her capacity as PP, made numerous adverse findings, conclusions and recommendations;

7.7 that this unit, existed between February 2007 and October 2014 when it was disbanded by the then SARS Commissioner, Mr Tom Moyane (“**Mr Moyane**”) and at its height was staffed by no more than twenty-odd officials of SARS and by end 2009 with seven officials and by the time it was shut down consisted of a mere six SARS employees;

7.8 that this investigative unit was also known at various times as the “Special Projects Unit” (“**SPU**”), the “National Research Group” (“**NRG**”) and the “High Risk Investigations Unit” (“**HRIU**”);

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- 7.9 that even before Report No. 36 of 2019/20 dated 5 July 2019, Ms Mkhwebane held the clear view that this unit, regardless of its official names at SARS, was in her view a “*rogue unit*” and she referred to it as “*the rogue unit*” publicly in her capacity as PP at various times;
- 7.10 that I had the most detailed intimate knowledge of the unit of anybody and am clearly the person most capable of confirming the accuracy and factual position relating to the unit as I was responsible for all management functions of the unit at all times from April 2008 until its closure in October 2014, except for a period of nine months in 2012 when I was assigned as advisor in the office of the Chief Officer: Tax and Customs Enforcement Investigations;
- 7.11 that I had approached the Office of the PP in 2016 already as a whistleblower in this regard of own will. To this extent, and after a daylong interview, two emails were sent to the office of the PP by me from my personal email address in 2016 at the request of the PP staff involved at the time in answer to questions posed to me. Appended to my emails were an array of documents relating specifically to, inter alia, efforts dating back to 2009, 2010 and 2014 to fraudulently brand the SARS investigative unit as a “*rogue unit*”, planned efforts to “*cause havoc*” at SARS, targeted campaigns to discredit Mr Pillay, Mr Gordhan and me by way of a fake “dossier” titled “*Project Snowman*” and details of persons involved in various efforts of disrupting and capturing SARS. The PP acknowledged receipt of the emails and annexures on 24 August 2016;
- 7.12 In paragraph (x) of the Executive Summary to Report No. 36 of 2019/20 dated 5 July 2019 Ms Mkhwebane recorded that during the investigation

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process she "... also tried to subpoena information and documentation from Mr van Loggerenberg but to no avail as his last known residence has new occupants allegedly having relocated some years ago".

7.12.1 I pause to record:

7.12.2 Ms Mkhwebane had in her possession reams of evidence and documents already provided by me, including my contact details such as my personal email address and mobile phone number.

7.12.3 Secondly, the address appearing on the subpoena handed in by Ms Mkhwebane to the court as part of the Rule 53 records is non-existent. No confirmatory affidavits were provided by her in this regard.

7.12.4 Thirdly, despite communications received and acknowledged and responded to her, from my erstwhile attorneys (Webber Wentzel), she made no attempt to contact me or my erstwhile attorneys. I annex hereto "JVL3" and "JVL4" which makes up correspondence in this regard from which it is clear that Ms Mkhwebane was quite able to contact me if she so wished. The content also speaks to other aspects of her bias and conduct I deal with further herein.

7.12.5 Fourthly, my residential details have remained the same since 2010 and were easily accessible via any ordinary route Ms Mkhwebane had available to her as PP by virtue of her extensive investigative powers, such as, my phone number has been the same for over two decades and has been registered in my name, or alternatively from banks, or credit reports or any media house for that matter who had been

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contacting me for many years, or even my former employer, SARS. I can think of a myriad of other easy ways in which she could have contacted me if she really wanted to.

7.13 that Report No. 36 of 2019/20 dated 5 July 2019 has since been reviewed and set aside by the Gauteng High Court, that a subsequent appeal by Ms Mkhwebane was denied by that court, as well as by the Supreme Court of Appeal and I believe the matter is now before the Constitutional Court;

7.13.1 In this regard, during these proceedings:

7.13.1.1 I filed a substantive affidavit in support of Mr Pillay's review application. I responded to every single one of the assertions made in the EFF's affidavit and set out a comprehensive rebuttal of the notion that the activities of the unit were rogue or unlawful in any conceivable respect.

7.13.1.2 I detailed my personal knowledge of many of the issues involved in Ms Mkhwebane's supposed "investigation", the history of the unit in question, and the matters that it dealt with. I further set out in detail the engagement I had with the office of the PP during August 2016 during which I was interviewed and detailed all documents sent to the office to which the receipt of these documents was acknowledged by the office of the PP on 24 August 2016. Neither Ms Mkhwebane nor the EFF challenged a single fact of my evidence before court in any manner or form and it thus stands uncontested.

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8 I resigned from SARS in February 2015 as a direct result of State Capture;

WHAT I HOPE THE COMMITTEE WILL CONSIDER IN LIGHT OF THE CONDUCT OF THE PP IN RELATION TO THE REPORT AND THE FACTS SET OUT ABOVE

9 As a statutory prerequisite to hold office as PP, Ms Mkhwebane, is expressly required to be a fit and proper person at all times in executing her duties as PP.

10 Ms Mkhwebane as an officer of the Court and an admitted advocate, is expressly required to be a fit and proper person in the execution of her duties as PP.

10.1 For Ms Mkhwebane to have concluded her investigation in relation to the SARS unit, she would have had to be honest and factual. I cannot imagine even a very inexperienced investigator bestowed with the powers of the PP, to have taken a position before even concluding an investigation into the unit, that it was "rogue" as a *fait accompli*, and then announce this publicly at various times before she had even determined or established the facts. There was no way that she would have been able to conclude that investigation without having considered what I had already provided her office in 2016, in detail, and certainly not by having not interviewed me or asked me to respond to her in any manner on oath. Her claims not to have been able to contact me ring hollow. At best she displayed profound incompetence and lack of effort and elementary skills to conduct investigations and to do even the most basic thing to contact me, or at worst, she was deliberately dishonest and arguably may well have acted fraudulently by omission.

10.2 Even at the time, when I did have an opportunity to put facts up during the court proceedings for the first time post her issuance of her report, none of

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these facts persuaded her to change her view at all. Instead, she simply did not respond to my evidence and has doggedly pursued her views ever since.

10.3 None of what I have described is conduct that can be considered fit and proper. I accept that persons make errors from time to time, even among the best of experts, but in the whole conspectus of events, it is very clear to me that Ms Mkhwebane made no effort to seek facts from the very person most capable of providing her with such in her investigation. When I did get an opportunity to do so after the fact, it still failed to move her in any manner or form.

11 Ms Mkhwebane as PP is required by our Constitution to be independent and impartial, and the Constitution demands that she exercises her powers 'without fear, favour or prejudice'. Those words are not mere material for rhetoric, as words of that kind are often used. The words mean what they say. Fulfilling their demands will call for courage at times, but it will always call for vigilance and conviction of purpose.

11.1 I believe I have made out a proper case that in my experience, Ms Mkhwebane failed to act without prejudice. Instead, she accepted unsubstantiated claims and wild accusations with absolutely no evidence whatsoever and from people she had never even interviewed or asked to go on oath, as if fact, and then failed to engage with me to seek my side of their claims. She also ignored what I had already provided her office years prior. Had she engaged me, she would have saved not only a lot of time, effort and money and whatever resources that had gone into the investigation and its aftermath, but justice would have triumphed and she would have known the

truth from the proverbial horse's mouth. So would the nation have known. Ms Mkhwebane failed the tests of courage, vigilance and conviction of purpose completely.

- 12 The PP is a state institution supporting constitutional democracy, established in terms of Chapter 9 of the Constitution, 1996. The PP has the power to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice; to report on that conduct; and take appropriate remedial action. It is a legal precedent upon Ms Mkhwebane as PP that at least one feature of an investigation by her must always exist – because it is one that is universal and indispensable to an investigation of any kind – which is that the investigation must have been conducted with an open and enquiring mind. An investigation that is not conducted with an open and enquiring mind is no investigation at all. That state of mind is one that is open to all possibilities and reflects upon whether the truth has been told. It is not one that is unduly suspicious but it is also not one that is unduly believing. It asks whether the pieces that have been presented fit into place. If at first they do not, then it asks questions and seeks out information until they do. It is also not a state of mind that remains static. If the pieces remain out of place after further enquiry then it might progress to being a suspicious mind. And if the pieces still do not fit then it might progress to conviction that there is deceit. How it progresses will vary with the exigencies of the particular case. One question might lead to another, and that question to yet another, and so it might go on. But whatever the state of mind that is finally reached, it must always start out as one that is open and enquiring.

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- 12.1 Quite clearly, on the simple facts set out herein, the report issued was not as a result of an investigation because what Ms Mkhwebane did was not conducted with an open and enquiring mind.
- 12.2 Ms Mkwhebanbe had already referred to the unit as "rogue" in her public statements well before she had even concluded the matter. I think this needs no elaboration. It is clear that she had a very closed mind.
- 12.3 All notions of basic human rights and natural justice were simply cast aside by her.

ADDITIONAL COMMENTS

- 13 I have deliberately kept my affidavit very brief and to the point. If so required, I shall amplify and supplement it at any time with greater detail.
- 14 I have deliberately not expanded into the details and merits of the matters I have raised herein as these have all been well ventilated before various courts and those records are publicly available. Where I did so, I did so on oath. In the event that any of those records are required, I shall provide them upon request. In the event that I am required to expand on any of them, I shall do so upon request. I make this submission upon the presumption that the Committee and evidence leaders will have appraised themselves of those documents, records, evidence and facts as deemed necessary.
- 15 It will be remiss of me to not point out the irony in the fact that Ms Mkhwebane has been spending an awful lot of time, effort and taxpayer monies in order to ensure that she is afforded an opportunity to be heard and to be represented in this process. It stands a far cry from what she had bothered to afford me and many

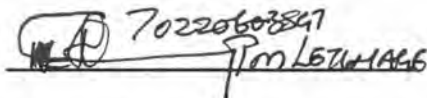
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others. She interviewed not one single member who was part of the unit over the years at any stage whatsoever. That alone speaks for itself.



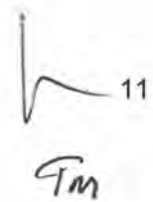
**JOHANNES HENDRIKUS
VAN LOGGERENBERG**

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit signed before me at Gardulu on this the 3rd day of JUNE 2022 and that the regulations contained in Government Notice No. 1258 of the 21st July 1972, as amended, have been complied with.


70220603847
Jim Letwheg

COMMISSIONER OF OATHS

SOUTH AFRICAN POLICE SERVICE
QARSPONTEIN
2022 -06- 03
COMMUNITY SERVICE CENTRE
SUID-AFRIKAANSE POLISDIENERS


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DELIVERED BY EMAIL

Secretary of the Committee for Section 194 Enquiry
Mr Thembinkosi Ngoma

Per e-mail: tngoma@parliament.gov.za

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EMAIL ADDRESS: bhotz@werksmans.com

18 May 2022

Dear Sir

INVITATION TO THE PUBLIC TO FURNISH EVIDENCE TO THE COMMITTEE FOR SECTION 194 ENQUIRY – ENQUIRY INTO THE REMOVAL FROM OFFICE OF THE PUBLIC PROTECTOR, ADV. BUSISIWE MKHWEBANE

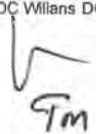
- 1 We represent Messrs Visvanathan (Ivan) Pillay and Johannes Hendrikus van Loggerenberg (collectively "our clients").
- 2 Our clients have instructed us to address this correspondence to you in order to provide the Committee with notice that they intend to furnish the Committee with evidence regarding the conduct of advocate Mkhwebane. Our clients' evidence will be made available to the Committee on or before the deadline being 12h00 on 3 June 2022.
- 3 Kindly acknowledge receipt hereof.

Yours faithfully

Werksmans Inc

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"JVL2"

Mohamed Hoosen

From: Thembinkosi Ngoma <tngoma@parliament.gov.za>
Sent: 18 May 2022 12:31
To: Bernard Hotz
Cc: Mohamed Hoosen
Subject: RE: INVITATION TO THE PUBLIC TO FURNISH EVIDENCE TO THE COMMITTEE FOR SECTION 194 ENQUIRY – ENQUIRY INTO THE REMOVAL FROM OFFICE OF THE PUBLIC PROTECTOR, ADV. BUSISIWE MKHWEBANE [IWOV-LITIGATION.FID414943]

Dear Mr Hotz

I acknowledge receipt of your notice to furnish the Committee with evidence regarding the conduct of the Public Protector.

The Committee will await your submission as mentioned in your letter.

Regards

From: Tracy Erasmus <terasmus@werksmans.com> **On Behalf Of** Bernard Hotz

Sent: Wednesday, 18 May 2022 11:23

To: Thembinkosi Ngoma <tngoma@parliament.gov.za>

Cc: Mohamed Hoosen <mhoosen@werksmans.com>

Subject: INVITATION TO THE PUBLIC TO FURNISH EVIDENCE TO THE COMMITTEE FOR SECTION 194 ENQUIRY – ENQUIRY INTO THE REMOVAL FROM OFFICE OF THE PUBLIC PROTECTOR, ADV. BUSISIWE MKHWEBANE [IWOV-LITIGATION.FID414943]

This email and its attachments are private, confidential, may be subject to legal professional privilege and are only for the use of the intended recipient.

Dear Sir,

The above matter refers.

Please see attached correspondence for your attention.

Yours faithfully,



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Your reference

Our reference

Date

D Milo / P Dela / L Makhubedu

14 June 2019

Dear Advocate Mkhwebane

URGENT DEMAND: PUBLICATION OF FALSE AND DEFAMATORY STATEMENTS REGARDING MESSRS IVAN PILLAY AND VAN LOGGERENBERG

1. We act for Mr Messrs Ivan Pillay and Mr Johann van Loggerenberg ("**our clients**") and refer, *inter alia*, to the false and defamatory statements about our clients made, published and publicly distributed by you, the Public Protector of South Africa as follows:
 - 1.1 the official video made by and shared by the Public Protector South Africa on YouTube; Facebook; and Twitter pages, on or about 3 June 2019 ("**your video**"). To date your video has received over 37 000 views on YouTube, 15 600 views on Facebook and 1 139 retweets. Your video can be accessed from the following link <https://www.youtube.com/watch?v=J98kr2u3AeY>;
 - 1.2 an official post compiled and shared on the Public Protector South Africa Facebook account, "**Public Protector South Africa**" on or about 7 June 2019 ("**your Facebook post**"). Your Facebook post has received 40 shares to date. A copy of your Facebook post is attached marked "**A**."

Senior Partner: JC Els **Managing Partner:** SJ Hutton **Partners:** BW Abraham RB Africa M Adderley NG Alp RL Appelbaum DC Bayman KL Bellings AE Bennett AP Blair DHL Booysen AR Bowley MS Burger RI Carrim T Cassim SJ Chong A Christie KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland JH Davies PM Daya L de Bruyn PU Dela JHB de Lange M Denenga DW de Villiers BEC Dickinson MA Diemont DA Dingley G Driver W Drue HJ du Preez CP du Toit SK Edmundson KH Elser AE Esterhuizen MJR Evans AA Felekis G Fitzmaurice JB Forman C Gabriel CP Gaul KL Gawith OH Geldenhuys MM Gibson H Goolam CI Gouws PD Grealay JM Harvey MH Hathorn JS Henning KR Hillis S Hockey CM Hofeld PM Holloway AV Ismail ME Jarvis CA Jennings CM Jonker S Jooste LA Kahn ACR Katzke M Kennedy A Keyser MD Kota JC Kraamwinkel M Kyle J Lamb E Louw L Marais S McCafferty MC McIntosh SJ McKenzie CS Meyer AJ Mills D Milo NP Mngomezulu M Moloi LE Mostert VM Movshovich RA Nelson G Niven ZN Ntshona M Nxumalo AN Nyatumba L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel GR Penfold SE Phajane BA Phillips MA Phillips D Ramjattan GI Rapson Z Rawoot K Rew SA Ritchie NJA Robb DC Rudman WJ Rysbergen G Sader M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh J Smit RS Smith MP Spalding PS Stein MW Straeuli LJ Swaine Z Swanepoel A Thakor TK Thekiso PZ Vanda PP van der Merwe SE van der Meulen JP van der Poel CS Vanmali JE Veeran B Versfeld MG Versfeld TA Versfeld DM Visagie EME Warrington J Watson AWR Westwood RH Wilson M Yudaken **Chief Operating Officer:** SA Boyd

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- 1.3 Your Facebook post includes statements which you made whilst addressing the Gala Dinner ("**the Gala dinner address**") of the South African Sheriff Society at the Highlands Gold and Trout Estate in Dullstroom, Mpumalanga on 7 June 2019 in your capacity as Public Protector of South Africa. This event was attended by, *inter alia*, members of the South African Sheriff Society, members of the South African Sheriff Society Executive Committee and members of the media; and
- 1.4 the abovementioned posts which were shared in a series of tweets from the official Public Protector handle, @PublicProtector, on or about 7 June 2019 to the accounts of 284 000 followers ("**your tweets**"). Your tweets referring to our clients have collectively received 200 retweets. A copy of your tweets are attached marked "B".
2. Your video at approximately 4:17, contains the following false allegations regarding our clients:
- "when it comes to issues of the rogue unit people have lost lives, people have been tainted and I think that is still going to happen."*
3. In addition, your Facebook post and tweets include the following false allegations regarding our clients:
- "Threats of arrest for money laundering etc and poisoning since I started investigating the so called Rogue unit";*
4. The Gala dinner address includes the following false allegations regarding our clients:
- "There have been threats of arrest for money laundering etc and poisoning since I started investigating the so called Rogue unit".*
5. The allegations in your video, Facebook post, your tweets and Gala dinner address are collectively referred to as "**the false and defamatory statements**".
6. The false and defamatory statements should be viewed against the backdrop and context that you, as Public Protector of South Africa, have decided to investigate various complaints concerning *inter alia*, the South African Revenue Service ("**SARS**"). You have publicly announced this. Aspects of your investigation ("**the investigation**") as indicated by you specifically relate to the erstwhile SARS Special Projects Unit which was formed in March 2007, later in May 2008 renamed the SARS National Research Group and lastly known as the SARS High-risk Investigations Unit ("**the SARS unit**") until it was shut down



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- by former SARS Commissioner Mr Tom Moyane in October 2014. Your investigation in this regard appears to be ongoing and is not yet complete.
7. As you will know, the *Sunday Times* newspaper dubbed this SARS unit as a "rogue unit" from 12 October 2014 onwards in over 30 prominent articles over 2 calendar years, accompanied by photos of our clients and their names relating to a period dating back to when our clients were employees of SARS, specifically between March 2007 and October 2014. The newspaper has since apologised and retracted the articles in a full-page article in April 2016.
 8. The false and defamatory statements were intended by you, and were/will be understood by those who heard, viewed and read the statements, to mean that our clients:
 - 8.1 have conducted themselves in an unlawful and dishonest manner and are continuing to do so;
 - 8.2 were a part of a SARS unit which operated unlawfully and dishonestly;
 - 8.3 as part of the SARS unit are responsible for the deaths of people and consequently that our clients are guilty of murder;
 - 8.4 are responsible for tainting the reputations of others;
 - 8.5 are planning and conspiring to commit further murders and efforts to taint reputations of others;
 - 8.6 conspired to frame you for money laundering and other crimes and are continuing to do so;
 - 8.7 have threatened your life; and
 - 8.8 were and remain part of a conspiracy to murder you by way of poisoning you.
 9. The statements also make it clear that you have already found as fact, as final outcomes and findings of your investigation (as at 7 June 2019), that our clients as part of the SARS unit, and the SARS unit itself, had operated unlawfully and dishonestly, including committing murder and tainting the reputations of others.
 10. Our clients deny the allegations contained in the false and defamatory statements. The false and defamatory statements have been published with the intention of defaming our


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- clients, harming the constitutional and common law rights of our clients, and promoting or propagating hatred against our clients, without due consideration to the facts.
11. We are instructed that you have also publically prejudged and expressed adverse views and conclusions of our clients in relation to the SARS unit at a time when your investigation is supposed to still be ongoing by referring to the SARS unit as the "rogue unit" as if fact and as a *fait accompli*.
 12. In this regard, our clients emphasise that the making of and publication of the false and defamatory statements by the Public Protector are irresponsible, dangerous and extremely damaging to our clients. Our clients contend that the allegations and implications contained in the defamatory statements are patently false, grossly defamatory and malicious, and amount to intimidation and harassment.
 13. Furthermore, the making of and publication of the defamatory statements have resulted in further highly defamatory and false statements being made by other social media users about our clients. At the time of making the false and defamatory statements, the Public Protector would have foreseen, alternatively, ought reasonably to have foreseen these severe consequences.
 14. Our clients submit that your prejudging of our clients and making such views public, are unlawful and unconstitutional and displays bias, malice and lack of objectivity on the part of the Public Protector of South Africa before an investigation has been concluded.
 15. The false and defamatory statements are also contrary to the constitutional imperative that rests upon the Public Protector of South Africa and as determined by our Courts, and as set out in the Public Protector Act, to act fairly, impartially, objectively, with an open mind and in an unbiased manner during an investigation.
 16. Our clients have suffered, and continue to suffer, material harm to their reputation and other constitutional rights as a result of the allegations contained in the false and defamatory statements.
 17. We are instructed to demand, as we hereby do, that you:
 - 17.1 immediately provide our clients with an undertaking that you will desist from making, publishing or causing to be published any further defamatory allegations concerning our clients to any party;



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Page 5

- 17.2 immediately remove the defamatory statements from all media platforms including all publications under your control (and not limited to YouTube, Twitter and Facebook); and
- 17.3 immediately publish the following unconditional apology and full retraction of the defamatory statements on the Public Protector's Twitter / Facebook / YouTube accounts:
- 17.3.1 *"On 3 and 7 June 2019, the Public Protector, Advocate Busisiwe Mkhwebane made public comments and published statements which made various allegations against Messrs Ivan Pillay and Johann van Loggerenberg. The Public Protector unconditionally withdraws those allegations and apologises for making them as they are false.*
- 17.3.2 *I further apologise for publicly prejudging and announcing guilt on Messrs Ivan Pillay and Johann van Loggerenberg by acting in a biased, unlawful and unconstitutional manner in relation to an ongoing investigation by my office.*
- 17.3.3 *I had no valid or lawful basis whatsoever for publicly asserting that Messrs Pillay and van Loggerenberg:*
- 17.3.3.1 *Conducted or are conducting themselves in an unlawful and dishonest manner;*
- 17.3.3.2 *were a part of a unit which operated unlawfully and dishonestly;*
- 17.3.3.3 *as part of a former SARS investigative unit are responsible for the deaths of people and consequently that they are guilty of murder;*
- 17.3.3.4 *are responsible for tainting the reputations of others;*
- 17.3.3.5 *conspired to frame me for money laundering;*
- 17.3.3.6 *have threatened my life; and*
- 17.3.3.7 *are part of a conspiracy to murder me by way of poisoning me".*
- 17.4 confirm to us in writing that you have complied with the above.
18. Should you fail to comply with the demands set forth in this letter by 10h00 on Tuesday, 18 June 2019, our clients may take such action as they may be advised.
19. Our clients' rights are reserved.



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Page 6

Yours faithfully

WEBBER WENTZEL

Dario Milo and Pooja Dela

Partners

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Email: dario.milo@webberwentzel.com | pooja.dela@webberwentzel.com***Sent electronically without signature***Handwritten signature or initials, possibly 'TM' or similar, located in the bottom right corner of the page.

Public Protector South Africa

June 8 at 9:15 PM ·

Address by the Public Protector, Adv. Busisiwe Mkhwebane, during the Gala Dinner of the South African Sheriff Society at the Highlands Gold and Trout Estate in Dullstroom, Mpumalanga on Friday, June 07, 2019,

Master of Ceremonies, Mr. Marks Mangaba;
President of the South African Sheriff Society, Mr. Petro Roodt;
Members of the SASS Executive Committee;
Members of the media;
Ladies and gentlemen;
Distinguished guests;

Good evening and thank you for extending an invite to my office to share with you this important moment.

Perhaps I should start by congratulating the 24 new Sheriffs, who swelled the ranks of this noble profession as recently as last week, bringing the total number of Sheriffs operating around the country to around 280 – if official information is anything to go by.

I am informed that a lot of the new recruits will commence their duties on 01 August 2019 while some have already commenced their duties. Please join me in wishing all the 14 women and 10 men, a successful spell in their new line of work.

You join a very important profession in the justice system. Although you are not part of the bureaucracy, you are appointed by the Minister of Justice and Correctional Services as impartial and independent officials of the court.

In some ways, you are at the coalface of the justice system in that you interact directly with the public to serve and execute court documents such as notices, warrants, summonses, and court orders.

You also wield a lot of power, which I have no doubt in my mind that you exercise responsibly and within the bounds of the Constitution and the law.

For instance, during the execution of a court order, you have the power to enter upon people's private premises even in their absence; push or pull open any door of a residence, a vehicle or a furniture item in search of documents and/or other articles.

You also have the power to attach and sell property as part of giving effect to warrants of execution against possessions identified for attachment and sale in execution to cover a debt, among other things.

My office is a client of yours too. Now and then, we require the services of a Sheriff to serve a subpoena on a person or institution that the subject of our investigations. Sometimes we procure such services to serve notices in terms of Section 7(9) of the Public Protector Act.

Each time, my office was served with the highest level of professionalism. For that, I would like to express a heartfelt word of gratitude. We look forward to more of that quality service as we continue to implement our constitutional mandate, which I will touch on shortly.

President;

You wrote to me on 26 March 2019, requesting that I come address this function. You asked that, in my speech, I should touch on the role of the Sheriff in upholding quality service to the people in a changing or modern society.

You indicated that this topic will be of great benefit to your more than 180 members, whom, you said, execute their duties in an increasingly demanding and sometimes violent environment.

Luckily, there are similarities between my office's and your work. Apart from the fact that I also operate in the legal field, my duties are just as demanding as yours and, although neither myself nor my investigators have encountered violence during the performance of our functions, we have definitely faced untold hostility.

Accordingly, I will let you in on dynamics of my work and the hurdles I encounter in the hope that you will draw important lessons from my experiences and apply them to your own, unique work circumstances.

Perhaps I should preface my input with a brief look at the mandate and powers of the Public Protector so as to put all that I am going to say in context.

This institution is a creature of the Constitution. Along with a few others, the Public Protector is established in terms of Section 181 of the Constitution as a quasi-judicial independent constitutional institution, with a shared role to strengthen constitutional democracy.

Like the courts, the Public Protector is independent and subject only to the Constitution and the law, and the institution is impartial and must exercise its powers and perform its functions without fear, favour or prejudice.

Again, as it is the case with the judiciary, the Constitution enjoins other organs of state to assist and protect the Public Protector so as to ensure the institution's independence, impartiality, dignity and effectiveness.

In addition, and similar to the judiciary, the Constitution bars interference with the functioning of the Public Protector by any person or organ of state.

Just as court orders bind all persons to whom and organs of state to which they apply, the Public Protector's remedial action is binding unless set aside by a court of law.

That is not as far as the parallels go. The process for the appointment of Public Protector and Judicial Officers, and their removal from office or impeachment are nearly indistinguishable. For instance, the Public Protector is appointed by the president on the recommendation of the National Assembly after the Assembly approves a resolution with a supporting vote of at least 60% of its members.

This step is preceded by a transparent screening process spearheaded by an ad hoc committee proportionally composed of members of all parties represented in the Assembly. Candidates, who are nominated by the public, must be South African citizens, be fit and proper persons to hold the office and comply with other requirements set out by the Public Protector Act.

When it comes to removal from office, section 194 of the Constitution is instructive. It provides that a Public Protector may only be removed from office on the grounds of incapacity, misconduct or incompetence; a finding to that effect by a committee of the National Assembly; and the adoption by the assembly of a resolution supported by at least two-thirds of its members.

As already indicated, these provisions resemble those applicable to judges, except in the case of a National Assembly committee, the judiciary has the Judicial Services Commission.

Now I move to the powers of the Public Protector. I am empowered in terms of section 182 of the Constitution to investigate, report on and remedy any alleged or suspected improper or prejudicial conduct in state affairs or the public administration, in any sphere of government.

I may not investigate court orders; my office must be accessible to all persons and communities and any report I issue must be open to the public unless there are special circumstances that require that such a report be kept under wraps. Such grounds could be considerations of national security.

But the Public Protector also has powers prescribed by national legislation such as the Public Protector Act, in terms of which I am empowered to investigate undue delays in the delivery of public services; unfair, capricious or discourteous behaviour; abuse of power; abuse of state resources, dishonesty or improper dealings in respect of public money and improper enrichment.

I relied on the provisions of this statute, for instance, when I investigated allegations of maladministration and irregular appointments against the City of Tshwane and former Executive Mayor, Solly Msimanga, where I found among other things that the appointment of Senior Executives, Ms Marietha Aucamp, Mr. Samkelo Mgobozi and Mr. Stephanie Adriaan de Villiers as Chief of Staff, Spokesperson and Executive Head respectively were indeed irregular as the three did not meet the minimum requirements for their respective positions.

I also have a corruption mandate in terms of the Prevention and Combating of Corrupt Activities Act. When I investigate in terms of this law and establish evidence of corruption, which is a criminal offense, I defer to the Directorate for Priority Crime Investigation (DPCI), also known as the Hawks, to take the matter further and bring in the National Prosecution Authority (NPA).

For instance, in a recent report, I directed the DPCI to investigate any alleged criminal conduct against officials implicated in financial mismanagement involving the procurement of services for the Nelson Mandela Memorial in this province.

I further have powers to enforce Executive Ethics under the Executive Members' Ethics Act. This is the piece of legislation I am relying on in the investigation of allegations that the President misled Parliament in

contravention of the Executive Code of Ethics when he was answering questions about his Bosasa donation.

It was under this law that I found that former Ministers Lynne Brown, Des van Rooyen and Malusi Gigaba misled Parliament and thus breached the Executive Code of Ethics, findings which eventually led to their respective release from Cabinet.

Under this law, complaints about suspected breaches of the Executive Code of Ethics can only be received from Members of the Executive, Members of Parliament and Members of the Provincial Legislature and can only be investigated by the Public Protector.

On receipt of such complaints, I'm obligated to investigate and such investigation ought to be concluded within a month, failing which I must write to the President or the Premier to inform them of the failure to meet that deadline.

This office is also a safe haven for whistle-blowers under the Protected Disclosures Act. It is under this law that I recently directed that a whistle-blower at a North West municipality, who had suffered occupation detriment after lifting the lid on what he deemed irregular and unauthorised expenditure involving hundreds of millions of rand, be reinstated.

Our services come free of charge and can be accessed through various means; including email, online, telephone or in person at any of our 19 walk-in offices across the country.

Everything we do in the service of the people of South Africa is informed by an elaborate plan, which we call the Public Protector Vision 2023. In essence, the vision is about taking the services of this office to the grassroots. It is underpinned by eight pillars, which relate to:

- a) Enhancing access to our services;
- b) Engaging communities in their mother tongues for effective communication;
- c) Increasing our footprint;
- d) Leveraging stakeholder relations to advance our interests through MOUs;
- e) Projecting an image of a stronghold for the poor as we should be;
- f) Ensuring that people are well-versed on their rights;
- g) Persuading organs of state to have effective in-house complaints resolution means to offload some of the burden from our shoulders; and
- h) Inspiring people to be their own liberators.

One of the pillars we have been advocating for vigorously is one on the establishment of in-house complaints resolution mechanisms as it helps reduce our caseload while freeing our hands to pursue more own-initiative interventions and systemic investigations, especially where service delivery is concerned.

I have noted that in your case, members of the public who are aggrieved about your conduct as Sheriffs can approach the South African Board for Sheriffs, to whom all Sheriffs are accountable.

President;

You say the work of your members is becoming increasingly demanding and that the environment within which they operate tends to be violent. I sympathise with you and your members sincerely. I do so because I know too well and can relate to what they are up against.

We, at the Public Protector, are in a similar if not slightly worse situation. This institution is going through what is probably its most testing time yet, with attacks raining down on us from every angle.

In the 20 months I have been in office, I have been called "incompetent" by a Minister; another Minister has said ngiyaphapha, IsiZulu for I am forward or that I lack restraint. And yet another Minister has said I have a problem and suggested that perhaps I and he should sit down, presumably so that he could supervise me.

I have had a Director-General call me an "idiot". I have also had journalists calling me a "moron". Another journalist took it further and brazenly used the f-word in a social media rant aimed at me. This in addition to being labelled a "Zuptoid" or a "Zupta Protector", among many other derogatory terms.

I have opened cases against those who insulted me in terms of the Public Protector Act.



I get subjected to the most unfair reporting in the media. Things have reached a point where even my comment – solicited ahead of publication of predetermined negative news stories – is not incorporated due to, I am told, word count considerations!

When I want to rebut inaccurate and misleading articles, I am denied a right of reply. On taking radio or television interviews, I'm subjected to the most demeaning interrogation while everybody else is engaged with professionalism and dignity.

Then there are unsubstantiated claims that I am a spy and calls for my removal from office. In addition, civil society organisations have been mobilised in an orchestrated campaign to besmirch me in the eyes of the public, apparently to prepare the ground to dislodge me from office.

Some of these organisations even have the nerve to want to micromanage my office – an independent institution – going as far as to tell us which matters should enjoy priority and how we should use the resources at our disposal.

Not that I am incapable of fighting my own battles but it needs to be said that no one has seemingly called on all those who work day and night, under the cover of darkness, to fan the flames of resentment against this office and me, in particular to stop.

You will agree with me that it is in the interest of our constitutional democracy that this institution be protected at all costs. It appears, in the view of some, it must only be cushioned when it places the indiscretions of certain individuals under the spotlight and, as soon as it turns the attention to others, all hell breaks loose.

I have tried to look closely at what could have prompted this antagonism and I have arrived at the conclusion that this kind of treatment has everything to do with the fact that I have had the courage to exercise my powers and perform my functions without fear, favour or prejudice – as required by the Constitution. I have dared to touch powerful institutions and individuals.

It appears the cardinal sin was my bravery to touch the establishment by directing that R1.125billion lost to the people of South Africa in an illegal gift from the South African Reserve Bank to Bankorp Limited/ABSA Bank be recovered.

That case was won on technicalities. In addition, I conceded that, in hindsight, the remedial action relating to the mandate of the Central Bank could have been phrased differently so as to not come across as dictating terms to Parliament in contravention of the trias politica doctrine.

The court never dealt with the R1.125billion lost to, thereby prejudicing the people of South Africa. To this day, no one talks about that and the fact that no less than two judges found the loan in question to have been unlawful. Where is justice?

Since that case, the knives have been out for me. Including malicious damage to my property and threat to the safety of my family.

The latest onslaught has been occasioned by the judgment on the Vrede matter. I am restricted in terms of what I can say about that judgment as we are appealing it.

However, I will say that some of the most preposterous claims have been that I declined to investigate the role of politicians in that matter and that I watered down the provisional report I found when I assumed office in order to shield these politicians.

I have since taken the liberty to and broke from convention to publish the provisional report in question – a confidential document – on our website just so people can see for themselves that there was never a complaint or allegation against any politician just as there was not finding of wrongdoing against them.

The two court judgments are now being used by those who do not like to be held to account in a desperate attempt to hide their own wrongdoing. They even cite the judgments in their own court papers challenging my reports instead of dealing with the content of the reports concerned.

Let's start with the first claim. Since I took the wheel as Public Protector, seven (7) of the investigation reports emanating from this office have been set aside by the courts on various grounds, the most common being irrationality. Only two of those reports were signed by me. The rest predate me.

That is besides the fact that High Court judgments get set aside all the time by the Supreme Court of Appeal and the Constitutional Court, which begs the question: how is it then that when only two of the 102 reports I

have issued since taking office are set aside I am labelled incompetent and threatened with an unceremonious removal from office?

Regarding the assertion that I should not have meet with the Presidency and the SSA during the Bankorp/ABSA investigation, I have explained that the predecessor of the SSA, the National Intelligence Agency, entered into the contract with British asset recovery, CIEX, on behalf of the South African government, led by the Presidency. How is it then that I was expected to investigate the matter without meeting with the parties?

There is also the ridiculous claim that I am targeting Minister Gordhan and President Ramaphosa. In the twelve months leading up to March 31, 2019, I had investigated 14 000 cases. Only two related to Minister Gordhan while one concerned the President. There has been only one report against Minister Gordhan and none against the President in the 102 I have issued thus far. How then am I targeting them?

There have been threats of arrest for alleged money laundering etcetera and poisoning since I started investigating the so-called "Rogue Unit" matter.

Some have exposed their ignorance by claiming that I waste much needed resources by attending to matters that have already been dealt with. According to them, the investigation against the President over the Bosasa donation is a waste of resources as Parliament has already addressed the matter.

Opinion makers must stop short-changing their audience and audiences need to stop falling for everything they hear without critical analysis. The investigation in question stems from a complaint lodged in terms of the Executive Members' Ethics Act by Mr. Mmusi Maimane of the Democratic Alliance.

As indicated earlier, the law is clear that on receipt of that kind of complaint, I am obliged to investigate and that only the Public Protector has the power to investigation breaches of the Executive Code of Ethics, which is what Mr. Maimane has alleged.

In investigations concerning Minister Gordhan, a story that is parroted without due regard for what the law says is that the NPA, for instance, has previously dropped its case on the matters under investigation such as the Rogue Unit".

I have been patient to explain to people who are seemingly not prepared to accept this truth that, the NPA deals with criminal offences while my mandate is maladministration, two different things.

They go further to ask why I am resuscitating cases that are dead and buried, and go back at least ten years. But I never heard them asking my predecessor, Adv. Thuli Madonsela, the same question when she agreed in 2011 at the instance of Adv. Paul Hoffman to investigate the Bankorp/ABSA matter, which was 14 years old at the time or the plight of a group of pensioners and former bureaucrats under the erstwhile homeland of Venda – some of them former Director-Generals – who were robbed of their pensions and are now forced to depend on social grants. That case reached the office in 2008 under Adv. Lawrence Mushwana even though it related to events that occurred at the dawn of democracy.

The most interesting part is that all the civil society organisations that are being used to wage this war are never this vocal where cases of ordinary people are concerned. Recently I named and shamed a number of organs of state and state functionaries, who have turned a blind eye to my findings and remedial action, leaving complainants high and dry.

Some of the remedial action, including that of the pensioners are refer to above, remains unimplemented. The question is: Are we going to see the likes of CASAC, Freedom Under Law, OUTA and the Ahmed Kathrada Foundation springing to the defence of these poor people just as they have done in the instance of the rich and powerful? I am not holding my breath.

As for the claim that I am part of governing party factional battles, I am yet to be furnished with evidence to proof my involvement. Apparently my investigation into the President is an example of this. Try reconciling this claim with the fact that the complainant in the matter is Mr. Maimane of the DA. Yet that has not stopped the critics and cynics from peddling this lie so as to give credence to their assertion that I am not fit and proper to occupy this position.

While I am disappointed that this propaganda is being given traction in the media, I am not at all surprised. To help you understand why, allow me to take you back to 1996, right before the final Constitution of the Republic came into effect.

Back then, the Constitutional Court had to make a ruling confirming that the full text of the Constitution complied with a list of 34 Constitutional Principles set out in Schedule 4 of the interim Constitution. Those principles included one which provided that:

"The independence and impartiality of a ... Public Protector shall be provided for and safeguarded by the Constitution in the interests of the maintenance of effective public finance and administration and a high standard of professional ethics in the public service."

The Court identified the features of the constitutional text that did not in its view comply with the those principles and gave its reasons for that view. One of those was the provisions of the Constitution dealing with the Public Protector. Said the court:

"The independence and impartiality of the Public Protector will be vital to ensuring effective, accountable and responsible government. The Office inherently entails investigation of sensitive and potentially embarrassing affairs of government. It is our view that the provisions governing removal of the Public Protector from office do not meet the standard demanded by Constitutional Principle XXIX."

The Constitutional Assembly then had to go back to the drawing board and reconsider the text, taking the court's reasons for non-certification into account. Eventually, the court noted the enhancement of the independence of the Public Protector and Auditor-General wrought by the text and confirmed the adequacy of these amendments, making the following order:

"We certify that all provisions of the amended constitutional text, the Constitution of the Republic of South Africa, 1996, passed by the Constitutional Assembly on 11 October 1996, comply with the Constitutional Principles contained in schedule 4 to the Constitution of the Republic of South Africa, 1993."

Again in the 2016 watershed judgement in the case of Economic Freedom Fighters and others versus Speaker of the National Assembly and others, the highest court in the land reminded us that:

"[The Public Protector's] are indeed very wide powers that leave no lever of government power above scrutiny, coincidental "embarrassment" and censure ... Her investigative powers are not supposed to bow down to anybody, not even at the door of the highest chambers of raw State power.

"The predicament though is that mere allegations and investigation of improper or corrupt conduct against all, especially powerful public office-bearers, are generally bound to attract a very unfriendly response.

"An unfavourable finding of unethical or corrupt conduct coupled with remedial action, will probably be strongly resisted in an attempt to repair or soften the inescapable reputational damage. It is unlikely that unpleasant findings and a biting remedial action would be readily welcomed by those investigated."

My staff is also subjected to abuse from complainants who have lost hope in the administration and come to our offices to be assisted. They do not want to even take a "no" for an answer. Some have even held our staff hostage and broke our window out of to rage. But we always treat them with compassion.

I do not lose sleep over the noise. I am proud of the office record thus far under my leadership. I am about to post — in the latest annual report — a successful finalisation of around 10 000 of a total of 14 000 investigations that my office dealt with during the 2018/19 financial year.

This will be an add-on to a successful run since taking office, during which period I dealt with nearly 50 000 matters, finalizing around 70% of those. Seventy (70) of the 102 formal investigation reports that I have issued in the same period have not been challenged in court and, as I said, only two of my reports have to date been set aside by the courts.

I am focused on building on these achievements and I will not allow room for any distractions. My interest is on bringing justice to the people of South Africa, a very large number of whom are at the grassroots as part of what I call the Public Protector Vision 2023, the ambitious blueprint through which I strive to make the services of this office more accessible.

I know some of you may not be Christian but I strongly believe I was placed in this position by the God that I serve and I believe that only He can remove me if He is of the view that I have failed. Should that time come, I shall pack my belongings without struggle and walk.

During stormy times, I always take solace in the words of a Bishop I crossed paths with a while back. He told me a profound tale of a certain resilient old man, who was on a quest to summit Mount Everest at all costs.

As the story goes, on the old man's way up the mountain, he came across throngs of people who were going in the opposite direction. All of them were very critical of his determination to reach the pinnacle. They told him that weather conditions up the mountain were deadly, citing strong winds and blizzards.

In the face of all the warnings, the old man shrugged and continued with his journey. He eventually reached the peak and made his way back shortly thereafter. On arrival at the foot of the mountain, he found all of the people that had been critical of his adventure having gathered there, waiting for him. Each of them wanted to know how he made it to the mountaintop, given the dangers posed by bad weather.

It is said that next to these people stood the old man's son who had been waiting for his father's return. The son told the people: "My father is deaf".

The moral of the story is that, in your mission to do that which may not be popular, there will be a lot of noise from cynics and critics. The best way to reach your goal in spite of all the cynicism and criticism is to be deaf to the noise.

That is the piece of advice I can give you to navigate the challenges you encounter in your work.

Justice with compassion.

Thank you.

Adv. Busisiwe Mkhwebane
Public Protector of South Africa



37

17 Comments 39 Shares

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Handwritten signature or initials.



Public Protector SA
@PublicProtector

Follow

"B"

PP: Threats of arrest for money laundering etc and poisoning since I started investigating the so called Rogue unit

1:02 PM - 7 Jun 2019

124 Retweets 146 Likes



14 124 146

Handwritten mark resembling a stylized 'L' or 'M' with an arrow pointing down.



Public Protector SA
@PublicProtector

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PP: In investigations concerning Minister Gordhan, a story that is parroted without due regard for what the law says is that the NPA, for instance, has previously dropped its case on the matters under investigation such as the so-called "Rogue Unit".

1:05 PM - 7 Jun 2019

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4 75 99



Public Protector SA @PublicProtector · Jun 7

PP: I have been patient to explain to people who are seemingly not prepared to accept this truth that, the NPA deals with criminal offences while my mandate is maladministration, two different things.

33 128 224



Public Protector SA @PublicProtector · Jun 7

PP: They go further to ask why I am resuscitating cases that have died and buried, and go back at least ten years

9 67 96



Public Protector SA @PublicProtector · Jun 7

PP: But I never heard them asking my predecessor, the same question when she agreed in 2011 at the instance of Adv. Paul Hoffman to investigate the Bankorp/ABSA matter, which was 14 years old at the time.

12 124 168

✓
Tom

"JVL4"



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Our Ref: TNS/PUB1/0018

17 June 2019

Your Ref: D Milo/P Dela/L Makhubedu

WEBBER WENTZEL
90 RIVONIA ROAD
SANDTON
JOHANNESBURG
2196

Attention: Dario Milo and Pooja Dela

Per email: dario.milo@webberwentzel.com / pooja.dela@webberwentzel.com

Dear Sirs,

**RE: URGENT DEMAND: PUBLICATION OF FALSE AND DEFAMATORY STATEMENTS
REGARDING MESSRS IVAN PILLAY AND VAN LOGGERENBERG**

1. Your letter dated 14 June 2019 addressed to the Public Protector South Africa ("our client") has been forwarded to us for a response.
2. We note the contents of your letter under reply and have been instructed to respond as follows:
 - 2.1 the statements which our client made as alluded to in your letter are neither false nor defamatory. These statements are factual and fall within our client's personal knowledge;

Director: Theophilus Noko Seanego B. FROC (M (Corporate Law))
Associates: Thembeka Kumalo LLB, Nandi Xunene BCom Law, LLB
Candidate Attorneys: Phisofole Mnyandu LLB, PGD Labour Law; Ngubeko Makhanya LLB

Pm

- 2.2 it is common cause that our client is currently investigating various allegations relating to SARS operations, including the formation and operations of an internal intelligence unit, commonly coined and publicly known as "the Rogue Unit";
- 2.3 we are yet to know of a court order which prohibits the use of the term "Rogue Unit". Until such time as there is an order to this effect, the term remains usable to all South Africans, including our client; and
- 2.4 nowhere in our client's statements are Messrs Pillay and van Loggerenberg mentioned. It remains a mystery how the mention of the name "Rogue Unit" imputes involvement of only the two aforementioned gentlemen as the unit employs a number of individuals.
3. How you concluded that it is false and defamatory that there are threats to our client's life, and the fact that there were attempts to poison her and that she must retract the statement, defies logic.
4. We must remind you of our client's Constitutional injunction to investigate without fear, favour or prejudice. It is incorrect that our client's investigation is biased and prejudicial to your clients. In fact, the converse holds true. Our client sees your letter as an attempt to influence the direction and course of the investigation for an outcome which bows at the wish of your clients.
5. Our client does not intend to play into the gallery of your clients' over-active imaginations that her investigation has predetermined findings of wrongdoing against your clients. It is only at the conclusion of the investigation that an outcome can be determined. Your clients have already prejudged themselves of wrongdoing without any finding or ruling to that effect, and are now preempting the outcome of an investigation which is still underway.
6. Thus, our client will not tender an apology, nor will she retract the statements made in all the platforms as demanded in your letter under reply.
7. You are more than welcome to exercise your rights to a legal recourse. We record that any action will be vehemently defended.
8. Our client's rights are reserved.

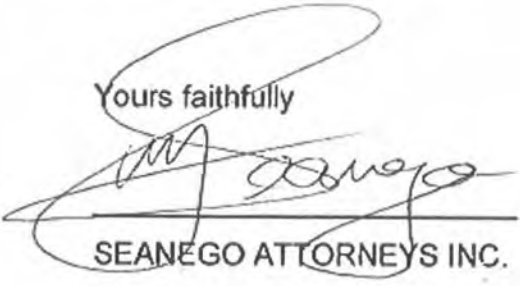
Director: Theophilus Nkomo Seanego B. P200 LLM (Corporate Law)

Associates: Themba Kumalo LLB Nandi Kunene BCom Law LLB

Candidate Attorneys: Phisojhe Mnyandu LLB PGO Labour Law; Ngubeko Makhanya LLB

TM

Yours faithfully



SEANEGO ATTORNEYS INC.

Per: Theo Seanego

Director: Theophilus Noko Seanego B PRDC, LL.M (Corporate Law).
Associates: Thembeka Kumalo LLB, Nandi Kunene BCom Law, LLB.
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TM