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# **EXHIBIT Y2**

**JUDGEMENT**

**IN RESPECT OF**

**CASE NUMBERS**

**35894/17 & 77549/17**

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**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

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IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

CASE NOS: 35894/17

77549/17

In the matter between:

INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE First Applicant

EXECUTIVE DIRECTOR, INDEPENDENT POLICE

INVESTIGATIVE DIRECTORATE,

ROBERT JOHN McBRIDE

Second Applicant

PRINCIPAL INVESTIGATING OFFICER,

MANDLAKAYISE MAHLANGU

Third Applicant

PRINCIPAL INVESTIGATING OFFICER,

TEMANE ABRAM BINANG

Fourth Applicant

and

(1) REPORTABLE:    YES / NO

(2) OF INTEREST TO OTHER JUDGES:    YES / NO

26/06/18  
DATE

  
SIGNATURE

LT. GENERAL JOHANNES KHOMOTSO PHAHLANE    First Respondent

NORTH WEST PROVINCIAL COMMISSIONER OF  
THE SA POLICE SERVICE,

LT. GENERAL BAILE BRENDA MOTSWENYANE    Second Respondent

**NORTH WEST PROVINCIAL COMMISSIONER**

**OF THE SA POLICE SERVICE,**

**MAJOR GENERAL NTEBO JAN MABULA**

Third Respondent

**NORTH WEST PROVINCIAL HEAD -**

**COMMERCIAL CRIMES INVESTIGATIONS,**

**BRIGADIER DANIEL PHARASA NCUBE**

Fourth Respondent

**MINISTER OF POLICE**

Fifth Respondent

**NATIONAL COMMISSIONER OF THE**

**SA POLICE SERVICE NO**

Sixth Respondent

In the matter between:

**INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE** First Applicant

**EXECUTIVE DIRECTOR, INDEPENDENT POLICE**

**INVESTIGATIVE DIRECTORATE,**

**ROBERT JOHN McBRIDE**

Second Applicant

**PRINCIPAL INVESTIGATING OFFICER,**

**MANDLAKAYISE MAHLANGU**

Third Applicant

**PRINCIPAL INVESTIGATING OFFICER,**

**TEMANE ABRAM BINANG**

Fourth Applicant

**PRINCIPAL INVESTIGATING OFFICER,**

**MANTSHA RAPHESU**

Fifth Applicant

and

**NATIONAL COMMISSIONER OF THE**

**SA POLICE SERVICE NO**

First Respondent

**NORTH WEST DEPUTY PROVINCIAL COMMISSIONER**

**OF THE SA POLICE SERVICE,**

**MAJOR GENERAL NTEBO JAN MABULA**

Second Respondent

**NORTH WEST PROVINCIAL HEAD -**

**COMMERCIAL CRIMES INVESTIGATIONS,**

**BRIGADIER DANIEL PHARASA NCUBE**

Third Respondent

**NORTH WEST PROVINCIAL COMMANDER**

**SPECIAL CRIMES UNIT**

**LT COLONEL ISMAIL DAWOOD**

Fourth Respondent

**NORTH WEST PROVINCIAL HEAD -**

**ORGANISED CRIME**

**BRIGADIER CLIFORD MATOME KGORANE**

Fifth Respondent

**NORTH WEST PROVINCIAL POLICE SERVICE**

**COLONEL SM REDDY**

Sixth Respondent

**LT. GENERAL JOHANNES KHOMOTSO**

**PHAHLANE**

Seventh Respondent

**NORTH WEST PROVINCIAL COMMISSIONER OF**

**THE SA POLICE SERVICE,**

**LT. GENERAL BAILE BRENDA MOTSWENYANE**

Eighth Respondent

**MINISTER OF POLICE**

Ninth Respondent

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**JUDGMENT**

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Tuchten J:

- 1 This litigation concerns two organs of state, the Independent Police Investigative Directorate (IPID) and the South Africa Police Service (SAPS). IPID was established to give effect to s 206(6) of the Constitution. It must investigate complaints of misconduct or offences committed by members of SAPS.
- 2 This litigation began when IPID, its executive director and its investigators applied to this court for a declaration of rights and interdicts. While the first case was pending, the same applicants and an additional investigator brought an urgent application against a number of police officers, some of whom were respondents in the first case. The Minister of Police was cited in both applications. The citations were complicated by the replacement of General Phahlane and other officers in their official capacities by new incumbents. Where it is necessary to refer to a specific litigant party, I shall refer in this judgment and in the order I shall make to the litigants as cited in the later, urgent application. Thus, eg, General Phahlane is the seventh respondent.
- 3 National legislation was enacted to establish IPID: the Independent Police Investigative Directorate Act, 1 of 2011 (the IPID Act). Although IPID is accountable for its actions to the Minister of Police, it is an

independent body. See *McBride v Minister of Police and Another (Helen Suzman Foundation as amicus curiae)*.<sup>1</sup>

- 4 The first applicant was suspended from office in March 2015. He returned to office in October 2016. In early 2016, IPID initiated an investigation against the seventh respondent. The first applicant felt that little progress had been made in this investigation and appointed a new team of IPID officers, namely the second, third and fourth applicants, to investigate the complaints against the seventh respondent.
- 5 IPID initiated two criminal cases against the seventh respondent. One of them was Kameeldrift CAS 145/09/2017 (the Kameeldrift case). It concerned the construction costs to the seventh respondent's private home. It is alleged that construction costs of over R1 million were paid from the accounts of two SAPS service providers who had benefited from tenders awarded to them. As part of the investigation, IPID obtained and executed a search warrant at the seventh respondent's home.

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<sup>1</sup> 2016 2 SACR 585 CC

- 6 After the search warrant was executed, a team of members of SAPS stationed in the North West Province began an investigation into the manner in which IPID's investigation of the seventh respondent had been conducted. The SAPS team was led by General Mabula, the second respondent, and included Brigadier Ncube, Colonel Dawood, Brigadier Kgorane and Colonel Reddy: the third, fourth, fifth and sixth respondents respectively.
- 7 IPID's case is that the members of the SAPS team have conflicts of interest because each of them is the subject of an investigation into alleged criminal conduct which is being conducted by the very same IPID investigators, ie the second to fourth respondents.
- 8 Broadly, the applicants sought a declaration as to what would constitute an impermissible conflict of interest in such circumstances, interdicts against the seventh respondent and the members of the North West SAPS investigating team to preclude them from further participating in the investigation against the IPID members and structural interdicts, describing how any interdicts granted had been implemented.

- 9 Pursuant to the urgent application, interim relief was granted by consent and without prejudice by Prinsloo J and both the urgent application and the initial application were postponed and came before me for argument on 21 June 2018.
- 10 Shortly before argument before me commenced on 21 June 2018, the applicants and the seventh respondent came to terms and embodied their consensus in a draft which I made an order of court. The seventh respondent undertook not to involve himself in the investigation or play any role in overseeing it. The case then continued between the other parties. The applicants were jointly represented by counsel and the remaining respondents, whom for convenience I shall henceforth call the respondents, were represented by a team of counsel.
- 11 At the outset, I invited argument as to the applicability of s 41 of the Constitution. Counsel satisfied me that s 41 was of no application because IPID is not an organ of state in the sphere of national government. IPID's independence takes it out of that category. Compare *Independent Electoral Commission v Langeberg Municipality*.<sup>2</sup>

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<sup>2</sup> 2001 3 SA 925 CC especially paras 17 to 27

- 12 I regret that outcome because the relationship between IPID and SAPS has become fraught, to say the least. Accusations of serious criminal misconduct have been flung by both sides. Inevitably there will be a certain tension between these two organs but the hostility demonstrated by the papers appears to be so bad that I fear that a certain measure of dysfunctionality has intruded into the relationship between the two services. This situation manifestly requires firm and skilful managerial and political leadership but the material before me shows that this leadership has as yet not been provided. I hope that this will be remedied.
- 13 In this regard, I must make clear that no findings of guilt or innocence are made by me. No person has been vindicated or condemned and assertions to that effect would be both premature and unfounded. This judgment and the order that I make are designed to settle the law on a point which was in issue between those involved. The very serious allegations - on both sides - deserve to be fairly and thoroughly investigated and dealt with according to law. Until the law has spoken, nobody is entitled to cry victory.
- 14 During argument on s 41 and its consequences, I was handed by counsel for the applicants, without objection, a bundle of correspondence, all emanating from IPID and its lawyers and several

addressed to the present National Commissioner and the state attorney. The bundle shows that IPID made strenuous efforts to settle the matter. I regret to say that none of these eight letters which constituted the bundle ever received a reply. It also appears that in a letter dated 23 May 2018 addressed by IPID to the present National Commissioner, IPID records that IPID understood that both the Minister and the National Commissioner agreed with IPID in principle on how the matter should be resolved.

15 But the Minister and the National Commissioner did not participate actively in these proceedings, They gave notice that they would abide the outcome of the case.

16 I was told from the bar that there is no code of conduct embodied in a standing order, set of regulations, national legislation or the like that governs in what circumstances a SAPS member will become conflicted in relation to a SAPS investigation against an IPID investigator to the extent that the SAPS member should withdraw from participation in the SAPS investigation. I think this is unfortunate and that such a code of conduct would contribute to an improved relationship between the two services. Had I the requisite jurisdiction under s 41 of the Constitution, I would given serious consideration to referring the matter back to the National Commissioner and the

Minister under s 41(4) with the request that they, in turn, give consideration to formulating a code of conduct binding on SAPS members and, consequentially resolving the present dispute.

- 17 Although up to the commencement of argument, the respondents maintained that no declaration was appropriate in the present circumstances, they changed this stance during argument. The applicants too changed their stance in relation to the declaration they sought. In the result, both sides put up draft declarations which they submitted should be made orders of court. Because the parties agree that a form of declaration by the court is appropriate, I need not explain in any great detail why I, too, agree that the court should exercise its discretion by granting a declaration.

- 18 The applicants' proposed declaration, as finally amended by them, reads:

It is declared that it is unconstitutional for any member of the ... SAPS to undertake or oversee an investigation into a member of ... IPID where that SAPS member has a personal interest in such investigation or is himself or herself subject to an investigation by that IPID member.

19 The respondents, on the other hand pointed to s 25 of the IPID Act, which reads, under the heading "Conflict of interest and disclosure of interest":

- (1) No member of the Directorate may conduct an investigation, or render assistance with an investigation, in respect of a matter in which he or she has a financial or any other interest which might preclude him or her from exercising or performing his or her powers, duties and functions in an objective manner.
- (2) If, during an investigation, it appears to a member of the Directorate that a matter concerns a financial or other interest of that member as referred to in subsection (1), that member must-
  - (a) immediately and fully disclose the fact and nature of that interest to the Executive Director; and
  - (b) withdraw from any further involvement in that investigation.

20 This provision regulates, in the context of conflict of interest, the conduct of IPID members toward SAPS members but there is no equivalent statutory provision which regulates the conduct of SAPS members toward IPID members.

21 Accordingly, the respondents propose that I simply adopt s 25 of the IPID Act, with the necessary changes, to regulate the position which arises in this case and in future cases of alleged conflicts of interest

where SAPS members might be required to investigate IPID members.

- 22 In formulating the declaration I shall issue, I bear in mind the important special position IPID and its investigators occupy in our constitutional architecture. Members of SAPS have enormous powers. They can deprive people of their liberty and intrude upon their private spaces either without prior oversight at all or where oversight is required (as in the cases of arrest or search and seizure under the authority of a warrant) necessarily without the subject of the action being heard on the question. Or members of SAPS can decline to exercise those powers. The potential for abuse is obvious. That is to my mind the primary reason why IPID exists: to investigate complaints of such abuses.
- 23 I bear in mind, too, that members of SAPS are constitutionally obliged to protect the independence and effectiveness of IPID. It is of the utmost importance that members of IPID, and I may say of SAPS as well, are able to carry out their duties vigorously. *Glenister v President of the Republic of South Africa and Others*.<sup>3</sup>

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<sup>3</sup>

2011 3 SA 347 CC para 222

- 24 Of special concern to IPID members, as demonstrated by the allegations in the present case, is the risk of what I might term a revenge investigation, ie the risk that a member of SAPS subject to or fearing an IPID investigation might use the powers vested in that SAPS member to conduct a counter-investigation against the very IPID member investigating or likely to investigate the SAPS member.
- 25 It must seldom, if ever, be necessary for a SAPS member in the position I have just described to participate in such a counter-investigation. Perhaps the participation in the investigation of such a SAPS member can be justified on the basis of very scarce skills or knowledge without which the counter-investigation cannot be conducted. In such a rare case, the SAPS member in question would have to be subject to a stricter level of oversight to ensure that the IPID investigation was not compromised.
- 26 I have dwelt on this hypothetical situation because it brings me to my next point, one made forcefully by the respondents. The precise delineation of the boundaries of permissible conduct by members of SAPS is preeminently a matter where policy considerations will play an important part. I was reminded by the respondents that it is not generally the province of the courts to rule on such matters. I agree. But where, as in the present case, those vested with the power to

translate policies considered appropriate into law have failed to act, then the courts must step in. That does not mean that the courts might or should usurp the functions of other organs of state. For this reason, I shall make it clear in the order I make that my declaration is to lapse upon the coming into force of statutory rules governing the situation.

- 27 Balancing as best I am able these considerations, I prefer in principle to adapt s 25 of the IPID Act to the present situation. That formulation appears to me better to recognise the complexities that may arise from case to case and to intrude to a lesser degree on the legislative and rule making competences of other organs of state. For purposes of clarity, I shall however provide that no member of SAPS may “*oversee* or conduct an investigation ... in which he or she has a *personal*, financial or any other interest ...” Counsel for the respondents submitted that the text as it stood was wide enough to cover these considerations but had no objection to the inclusion of the two words I have italicized in the declaration. I shall also make other minor departures from the text of s 25 which I think will make it easier for a busy police office to understand what he or she may or may not do.

28 I was further told by counsel for the respondents that neither the Minister nor the National Commissioner wished to be heard on the subject and that these two office bearers continued to abide the judgment of the court and appreciated that they were bound by the declaration.

29 As to the interdicts sought by the applicants, this aspect was addressed and resolved when, following an adjournment in the course of argument sought by counsel for the respondents, the effected respondents furnished a written undertaking to the court by the Deputy National Commissioner, Lt General Mfazi, which was acceptable to the applicants. I received the undertaking, initialled it and dated it and I now mark it "Y", for purposes of identification.<sup>4</sup>

30 Finally, as to costs: both sets of litigants are organs of state and their funding comes from the same public purse. For this reason counsel for the respondents argued that there should be no costs order. I am persuaded however that a costs order would have a legitimate symbolic and perhaps practical effect. Although I prefer the formulation of the declaration put up by the respondents, the applicants were substantially successful and they were justified in

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<sup>4</sup> When I received General Mfazi's undertaking in court, I marked it "X", overlooking that I had identified the earlier undertaking of the seventh respondent in that way, I have amended my notation on the later undertaking to mark it "Y".

bringing the applications. They are entitled to point to judicial recognition of these considerations if and when they are called upon to defend any budget proposals made by them going forward. Finally on this score, the respondents adopted positions both as to the declaration and to the interdicts which were not reasonable or justified, as demonstrated by their concessions during argument.

31 Finally, I make clear that my costs order relates only to the applicant's costs and not to those of the seventh respondent.

32 I make the following order:

1 It is declared that:

1.1 No member of the South African Police Service (SAPS) may oversee or conduct an investigation, or render assistance with an investigation, in respect of a matter concerning a member of the Independent Police Investigative Directorate in which he or she has a personal interest or a financial interest or any other interest which might preclude him or her from exercising or performing his or her powers, duties and functions in an objective manner.

- 1.2 If, during an investigation, it appears to a member of SAPS that a matter concerns a financial or other interest of that member as referred to in paragraph 1.1 of this order above, that member must-
- (a) immediately and fully disclose the fact and nature of that interest to the National Commissioner of SAPS; and
  - (b) withdraw from any further involvement in that investigation.
- 2 The declaration in paragraph 1 above shall remain in force until the coming into operation of any statutory rules, whether in the form of standing orders or the like or regulations having nation wide effect or national legislation, governing the subject matter in paragraph 1 above.
- 3 It is recorded that the written undertaking of the seventh respondent, Lt General Phahlane, given on 21 June 2018 and marked "X", attached to this order was made an order of court by consent between the applicants and the seventh respondent on 21 June 2018.
- 4 The undertaking of the Deputy National Commissioner, Lt General Mfazi, given on 21 June 2018, amended to be marked "Y" and attached to this order, is hereby made an order of court.

- 5 The first to sixth and eighth respondents, as reflected in case no. 77549/17 must pay the costs of the applicants both in case no. 35894/17 and in case no. 77549/17. Such costs are to include all reserved costs and the costs consequent upon the employment of two counsel.



NB Tuchtén  
Judge of the High Court  
26 June 2018

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

X  
21/06/18

CASE NOS.: 35894/17

77549/17

In the matter between:

INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE First Applicant

EXECUTIVE DIRECTOR,  
INDEPENDENT POLICE INVESTIGATIVE  
DIRECTOR, MR ROBERT JOHN MCBRIDE Second Applicant

PRINCIPAL INVESTIGATING OFFICER  
MANDLAKAYISE MAHLANGU Third Applicant

INVESTIGATING OFFICER TEMANE ABRAM BINANG Fourth Applicant

and

THE ACTING NATIONAL COMMISSIONER OF  
THE SOUTH AFRICAN POLICE SERVICE,  
LT. GENERAL PHAHLANE First Respondent

THE NORTH WEST PROVINCIAL COMMISSIONER  
OF THE SOUTH AFRICAN POLICE SERVICE,  
LT. GENERAL BAILE BRENDA MOTSWENYANE Second Respondent

THE NORTH WEST DEPUTY PROVINCIAL COMMISSIONER  
OF THE SOUTH AFRICAN POLICE SERVICE,  
MAJOR GENERAL MABULA Third Respondent

THE NORTH WEST PROVINCIAL HEAD –  
COMMERCIAL CRIMES INVESTIGATIONS,  
BRIGADIER D.P. NCUBE Fourth Respondent

MINISTER OF POLICE Fifth Respondent

AND

Jm Shogwe

In the matter between:

<b>INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE EXECUTIVE DIRECTOR,</b>	First Applicant
<b>INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE, ROBERT JOHN MCBRIDE</b>	Second Applicant
<b>PRINCIPAL INVESTIGATING OFFICER, MANDLAKAYISE MAHLANGU</b>	Third Applicant
<b>PRINCIPAL INVESTIGATING OFFICER, TEMANE ABRAM BINANG</b>	Fourth Applicant
<b>PRINCIPAL INVESTIGATING OFFICER, MANTSHA RAPHESU</b>	Fifth Applicant
and	
<b>NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE N.O.</b>	First Respondent
<b>NORTH WEST DEPUTY PROVINCIAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE, MAJOR GENERAL NTEBO JAN MABULA</b>	Second Respondent
<b>NORTH WEST PROVINCIAL HEAD – COMMERCIAL CRIMES INVESTIGATIONS, BRIGADIER DANIEL PHARASA NCUBE</b>	Third Respondent
<b>NORTH WEST PROVINCIAL COMMANDER – SPECIAL CRIMES UNIT LIEUTENANT COLONEL ISMAIL DAWOOD</b>	Fourth Respondent
<b>NORTH WEST PROVINCIAL HEAD – ORGANISED CRIME BRIGADIER CLIFORD MATOME KGORANE</b>	Fifth Respondent
<b>NORTH WEST PROVINCIAL POLICE SERVICE COLONEL S.M. REDDY</b>	Sixth Respondent
<b>LT. GENERAL JOHANNES KHOMOTSO PHAHLANE</b>	Seventh Respondent

*Jm Shongwe*

NORTH WEST PROVINCIAL COMMISSIONER  
OF THE SOUTH AFRICAN POLICE SERVICE,  
LT. GENERAL BAILE BRENDA MOTSWENYANE

Eighth Respondent

MINISTER OF POLICE

Ninth Respondent

**DRAFT COURT ORDER**

The first respondent records as follows:

1. The first respondent is a witness in the police investigation under Kameelsdrift CAS: 12/1/2017;
2. The first respondent as such deposed to an affidavit in the said Police docket under Kameelsdrift CAS: 12/1/2017, but records that he is not the complainant and neither did he open the said complaint/docket;
3. The first respondent records that at no stage did he undertake or oversee the investigation in the said matter under Kameelsdrift CAS: 12/1/2017, neither did he appoint the investigation team.
4. It is recorded that the applicants in this matter dispute the recordal of the first respondent as per points 1, 2 and 3 above.

**THEREFORE** in view of the aforesaid:

1. The first respondent agrees and undertakes not to at any stage up to the finalisation of the matter under Kameelsdrift CAS: 12/1/2017 in any manner involve himself in the investigation of the said matter or play any role in overseeing the investigation process.
2. The aforesaid undertakings are made to the applicants and the Court.
3. It is recorded that each party is to pay their own costs.

By order

*JM Shongwe*

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

RJM-JUD/22  
21/06/18.

CASE NOS: 35894/17  
77549/17

In the matter between:

INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE	First Applicant
EXECUTIVE DIRECTOR, INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE, ROBERT JOHN MCBRIDE	Second Applicant
PRINCIPAL INVESTIGATING OFFICER, MANDLAKAYISE MAHLANGU	Third Applicant
PRINCIPAL INVESTIGATING OFFICER, TEMANE ABRAM BINANG	Fourth Applicant

and

LT. GENERAL JOHANNES KHOMOTSO PHAHLANE	First Respondent
THE NORTH WEST PROVINCIAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE, LT. GENERAL BAILE BRENDA MOTSWENYANE	Second Respondent
NORTH WEST DEPUTY PROVINCIAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE, MAJOR GENERAL NTEBO JAN MABULA	Third Respondent
NORTH WEST PROVINCIAL HEAD – COMMERCIAL CRIMES INVESTIGATIONS, BRIGADIER DANIEL PHARASA NCUBE	Fourth Respondent
MINISTER OF POLICE	Fifth Respondent
NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE N.O.	Sixth Respondent

AND

Jim Shogwe

In the matter between:

<b>INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE</b>	First Applicant
<b>EXECUTIVE DIRECTOR, INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE, ROBERT JOHN MCBRIDE</b>	Second Applicant
<b>PRINCIPAL INVESTIGATING OFFICER, MANDLAKAYISE MAHLANGU</b>	Third Applicant
<b>PRINCIPAL INVESTIGATING OFFICER, TEMANE ABRAM BINANG</b>	Fourth Applicant
<b>PRINCIPAL INVESTIGATING OFFICER, MANTSHA RAPHESU</b>	Fifth Applicant
and	
<b>NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE N.O.</b>	First Respondent
<b>NORTH WEST DEPUTY PROVINCIAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE, MAJOR GENERAL NTEBO JAN MABULA</b>	Second Respondent
<b>NORTH WEST PROVINCIAL HEAD – COMMERCIAL CRIMES INVESTIGATIONS, BRIGADIER DANIEL PHARASA NCUBE</b>	Third Respondent
<b>NORTH WEST PROVINCIAL COMMANDER – SPECIAL CRIMES UNIT LIEUTENANT COLONEL ISMAIL DAWOOD</b>	Fourth Respondent
<b>NORTH WEST PROVINCIAL HEAD – ORGANISED CRIME BRIGADIER CLIFORD MATOME KGORANE</b>	Fifth Respondent
<b>NORTH WEST PROVINCIAL POLICE SERVICE COLONEL S.M. REDDY</b>	Sixth Respondent
<b>LT. GENERAL JOHANNES KHOMOTSO PHAHLANE</b>	Seventh Respondent
<b>NORTH WEST PROVINCIAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE, LT. GENERAL BAILE BRENDA MOTSWENYANE</b>	Eighth Respondent
<b>MINISTER OF POLICE</b>	Ninth Respondent

*JM Shongwa*

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DRAFT ORDER

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IT IS RECORDED, BY THE UNDERTAKING OF DEPUTY NATIONAL COMMISSIONER, LT. GENERAL MFAZI, IN THE CAPACITY OF THE ACTING NATIONAL COMMISSIONER, THAT:

1. The following members of the SAPS will be removed with immediate effect from the investigation of the second to fifth applicants in Kameeldrift CAS

12/01/2017:

- 1.1 Major General Ntebo Jan Mabula;
- 1.2 Brigadier Daniel Pharasa Ncube;
- 1.3 Lt. Colonel Ismail Dawood;
- 1.4 Brigadier Clifford Matome Kgorane; and
- 1.5 Colonel S.M. Reddy

- 2 The National Commissioner of the SAPS shall take all necessary steps to ensure that the investigations referred to in paragraph 1 above are undertaken and overseen by SAPS members who have no financial or any other interest which might preclude them from exercising or performing their powers, duties, functions in an objective manner.

- 3 The National Commissioner of the SAPS shall file a report with this Court and the applicants by no later than 4pm on Thursday, 28 June 2018, setting out the steps taken to comply with the undertaking in paragraphs 1 and 2 above.

*Jim Stogne*



4 These undertakings are made to the Court and the applicants without any concession or admission of liability.

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BY ORDER OF COURT

.....  
The Registrar

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*Tim Shogwe*