



STATE SECURITY AGENCY

EXHIBIT YY 17

**SONTO GLADYS
KUDJOE**



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

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**SUBMISSIONS OF AMBASSADOR SONTOKUDJOE, FORMER DIRECTOR-GENERAL OF
THE STATE SECURITY AGENCY, TO THE JUDICIAL COMMISSION OF INQUIRY
INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD
IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

AFFIDAVIT

I, the undersigned

SONTOKUDJOE

do hereby make oath and say:

1. I am an adult female person, currently the Secretary of Defence with the South African National Defence Force and formerly the Director-General of the State Security Agency ("SSA"), appointed in terms of Section 3 (3) (a) of the Intelligence Services Act, 65 of 2002, ("ISA") and Section 12 (1) (a) of the Public Service Act, 103 of 1994 ("PSA") and identified as the head and accounting officer of the SSA as envisaged in Section 3 (3) (b) of ISA and Section 12 (1) (a) PSA as well as the General Intelligence Laws Amendment Act, No. 11 of 2013 ("GILAA").
2. The facts deposed to in this affidavit are, to the best of my belief, within my knowledge or are apparent from the document(s) under my control, which I confirm to be true and correct unless indicated expressly or by context.
3. Where I rely on submissions of:
 - 3.1 a legal nature, such submissions are made on the advice of my legal representatives, which advice has been explained to me and which I accept; and



- 3.2 hearsay evidence nature, I verily believe same to be true and where:
- 3.2.1 it is necessary, I will file together with this affidavit, a confirmatory affidavit; and
- 3.2.2 if it is not possible to file a confirmatory affidavit, I request that same be admitted in terms of Sections 1 and/or 3 of the Law of Evidence Amendment Act, 45 of 1988.
4. It is imperative that I must point out at the outset that I may be constrained to divulge names of certain individuals or projects as I am bound by the oath of secrecy that I took when joining the intelligence community and also being alive to the issues of national security. As envisaged in Section 10 (4) of ISA, I have to take steps as is reasonably practicable to ensure that national security intelligence; intelligence collection methods; sources of information and the identity of members of the Intelligence Services or the Academy are protected from unauthorised and/or unjustifiable disclosure.
5. As best as I could in the circumstances, I have endeavoured to get documents to be used in support of the submissions made herein and/or authority granted for those documents to be referred to, *alternatively* paraphrased, *further alternatively* used where necessary, in want of assisting this Commission.
6. I wish to state that the SSA has not provided me with some of the requested information which could have assisted me to adequately respond to the allegation made against me. I attach hereto copies of the letters of the request from my attorneys of record as annexure, "SK 1" and SK 2".



OVERVIEW AND METHODOLOGY

7. In this affidavit I will first give a brief background of my career in the intelligence community in want of foreshadowing the basis for the decisions I took when I was in the stead of being an accounting officer of SSA.
8. Secondly, I will explore the interface between executive authority and the operational component of SSA.
9. Thirdly, I will outline the steps I took to ensure compliance with Public Finance Management Act, 1 of 1999 as amended ("PFMA") read with the Treasury Regulation, Instructions and Guidelines.
10. Fourthly, I will provide a lay out of legislative framework and policy guidelines applicable in SSA.
11. Fifthly, I will show organisational misalignment of the reporting structure that hampers proper controls and accountability particularly at Accounting Officer level.
12. Finally, I will deal with contentious issues raised by the witnesses who may have cast aspersions of impropriety on my part or my office during my tenure as the Accounting Officer of SSA.
13. Having regard to the Rule 3.3 Notices that were served to me, I surmise that I have to confine my submissions between the periods August 2013 to August 2016 when I was the Accounting Officer of the SSA.

CAREER BACKGROUND

14. During the mid-nineties (middle of 1990s) I joined the intelligence community, I was deployed at the South African Secret Service ("SASS") which in today's



parlance is known as the Foreign branch. I worked as the Manager responsible for Africa, focusing on research and analysis. In my line function there were close to forty (40) analysts covering the various geographic areas of the African continent. At the time I was there, South Africa played a major role in brokering peace in a number of countries such as the DRC, Lesotho, Burundi just to mention but a few. South Africa was an active player in ensuring that there was peace and stability on the continent and significantly reduced the number of unconstitutional changes of government in the form of *coup de tat* or refusal to hand-over power after elections. We also started laying the foundation for the transition of the Organisation of African Unity to the African Union which was finally launched in Durban in 2002. The focus also shifted from concentrating only on politics to include the issues of economic development of the continent.

15. It is worth noting that at the time there was also a second branch which was internally focused, namely, the National Intelligence Agency ("NIA"). NIA's mandate was to focus on the state i.e. secure the state, its citizens and the economy.
16. The two intelligence agencies had completely different mandates and functioned independent of each other, suffice to say that even though they were different entities they both functioned properly, optimally with all the governance systems in place. All the necessary controls were in place and adhered to.
17. Both intelligence agencies reported to the Minister of Intelligence as separate and independent agencies. There was visible accountability and this state of



affairs ensured consistency and stability in both arms of intelligence. Rules and policies were in place. There was enforcement of systems and regulations.

18. South Africa was renowned as one of those intelligences services that were known to be professional and were held in high esteem by our peers. We managed to build and cultivate good bilateral relations with other intelligence services worldwide.
19. Significantly, in 2009 the two intelligence agencies were amalgamated and formed what is today known as the SSA. This amalgamation brought about its own challenges because it resulted in the displacement of a lot of its members. Consequently, there were a lot of grey areas that were not addressed or were overlooked during the restructuring. In a nutshell, this amalgamation could not achieve an establishment of a seamless SSA because the mandate of the two intelligence agencies still had totally different focus areas of responsibility. An internal tug of war was bound to ensue, wrangling about resources.
20. In 2002 I got attached to the Department of Foreign Affairs and took ambassadorial posting in Sweden and Egypt.
21. Later, I was appointed as the Director General of SSA in 2013. It came to my realisation from the onset that there were a lot of challenges within the institution. I was saddled with the mammoth task of finding a synergy between the two intelligence agencies and bring harmony internally, striving for a lean and mean institution, elimination of duplications and be cost effective and deliver on the mandate at the same time.



22. In the process of trying to understand the organisation and its challenges I then undertook physical visits to different structures of SSA I was in awe to establish the number of people who were loyal, committed and loved the organisation. They would do anything to salvage the organisation, whatever it took because intelligence for them was the only thing they ever knew. The majority of the members loved intelligence and gave the necessary support by respecting the systems one was trying to put in place. On the other hand, there were those who thrived amid all that chaos and would rather have the status *quo* remain so that they can loot, I hasten to add that they were ruthless and content to their hearts in so doing.
23. The Accounting Officers for SSA prior to my appointment in terms of new structure were:
- 23.1 Amb Mzuvukile Jeff Maqetuka 2009 – 2011.
 - 23.2 Amb Dennis Thokozani Dlomo (acting DG) 2011 – 2013.
 - 23.3 Amb Sonto Gladys Kudjoe 2013 – 2016.
 - 23.4 Mr Arthur Fraser 2016 – 2018.
 - 23.5 Mr Loyiso Mhlobo Thando Jafta (acting DG) 2018 – 2021.
 - 23.6 Amb Tony Gab Msimanga (acting DG) 2021 – present.
24. The abovementioned Directors-General were serving under the following Ministers:
- 24.1 Dr Siyabonga Cyprian Cwele 2008 – 2014.
 - 24.2 Mr Mbangiseni David Mahlobo 2014 – 2017.



- 24.3 Adv Bongani Thomas Bongo 2017 – 2018.
 - 24.4 Ms Dipuo Bertha Letsatsi-Duba 2018 – 2019.
 - 24.5 Ms Ayanda Dlodlo 2019 – present.
25. As could be siphoned from above, during my term as the Director General of SSA I served Ministers Cwele and Mahlobo. I abdicated my position as the Accounting Officer of SSA in August 2016. Over four years later subsequently, I joined the South African National Defence Force ("SANDF") as the Secretary of Defence, which is a post level of Director General. I am still serving at SANDF in this capacity.

INTERFACE BETWEEN EXECUTIVE AUTHORITY AND THE OPERATIONAL COMPONENT OF STATE SECURITY AGENCY

26. The policies of intelligence like in any other government department provide for work to be done based on relevant pieces of legislation together with the resultant policies and directives. It became apparent that there was significant departure from the way things were done pre-amalgamation and how things were done post amalgamation, i.e. under the SSA.
27. It is imperative to note that SSA unlike other government departments is not a vote (stand-alone in terms of its budget) but a programme under National Treasury. This means that the budget of SSA is not disclosed in the Estimates of National Expenditure ("ENE"). I hasten to add that the Budget Management Structure of SSA follows the principles published by National Treasury on Budget Programme Structure and guidelines applicable in Internal Budget Governance.



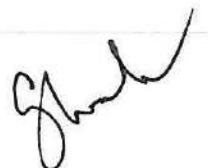
28. The Minister is the Executive Authority and political head of SSA. The Minister is responsible for policy matters and outcomes. These include seeking parliamentary approval and adoption of the budget. The Director General as the Head of the Department is responsible for outputs and implementation, and accountable to Parliament for the implementation of the annual performance plan through the resources made available both financial and human resources.
29. It is imperative that I must categorically state that the Minister as an Executive Authority does not have authority and in fact cannot run operations of SSA, both in terms of statutory provisions and policy guidelines.

COMPOSITION OF THE AGENCY AND OVERSIGHT

30. As the Director General I was the Accounting Officer as alluded to before. However, I must point out that the Directors for Domestic Branch ("DB") and Foreign Branch ("FB") were also at the level of DG even though in terms of GILAA there is no provision that creates a Director post at the equivalent level of Director General. What GILAA provides is for the Minister in consultation with the President to create post at the equivalent level of Deputy Director General ("DDG"). In essence the Director posts for DB and FB did not have a legal recognition, they existed in name only.
31. Both Directors of DB and FB have oversight responsibilities in respect of the work and performance of their respective branches. They are accountable for the execution of the Annual Performance Plan of their respective areas. Further, they must account for both human and financial resources allocated to their branches as contemplated in terms of Section 45 of the PFMA.



32. The function and governance of the SSA is regulated by the National Strategic Intelligence Act of 1994. I hasten to add that the Intelligence environment is heavily regulated. There are a number of institutions or structures charged with the responsibility of oversight. These are:
- 32.1 Office of the Inspector General of Intelligence ("OIGI");
 - 32.2 the Joint Standing Committee on Intelligence ("JSCI"); and
 - 32.3 the Office of the Auditor General of South Africa ("AGSA").
33. Over and above these institutions, there are other useful structures, which are mandatory in terms of Section 38 (a) (ii) of the PFMA, designed to advance accountability *viz*:
- 33.1 the Internal Audit ("IA"); and
 - 33.2 the Audit and Risk Committee ("ARC").
34. It must be borne in mind that the Minister and Director General are accountable to the JSCI on performance and delivery on the annual performance plan of intelligence including matters of counter-intelligence as required by the Intelligence Services Oversight Act, 40 of 1994 read with the PFMA. In turn the JSCI reports to Parliament on both intelligence and counter-intelligence matters of SSA.
35. The Inspector General for Intelligence oversees issues of compliance and performance information on the work of SSA and also conducts investigations in relation to complaints or any matters regarding maladministration and corruption brought against SSA by members of the intelligence community and the broader public as well.



36. The Auditor General also conducts audits on an annual basis on SSA in want of holding it accountable for the resources it receives from government in its mandate to do intelligence work. The AG audits are always preceded by audits conducted by the internal Audit of the SSA.
37. The legislative provision for the establishment of Intelligence Council on Conditions of Service is found in Section 22 (1) of GILAA.
38. In terms of the internal planning and budgeting structure; i.e. Heads of Administration, Domestic & Foreign Branch, National Communication, Training, Spending Centres (OIGI, NICOC & ICCS) and General Managers of various Chief Directorates within the structure are responsible for planning, budget management and internal controls in their areas of responsibility as required in terms of Section 45 of the PFMA. Notwithstanding the abovementioned structures it is apposite that I mention that the governance structures across the SSA were dysfunctional.
39. The CFO provides financial management information, systems and support to assist management to discharge their responsibilities as required by law, in respect of the entire SSA.
40. At the commencement of my role as the Accounting Officer, I found an institution where a number of restructuring processes were badly planned resulting in misplacement of members; bloated organisational structures; duplications and waste; loss of analytical capacity resulting in low morale and some members staying at home for long extended periods of time and at the same time being paid their salaries. This amalgamation was never envisioned



in the Constitution of the Republic of South Africa Act, 108 of 1996 nor in the White paper on Intelligence.

41. In a bid to accomplish my task, I embarked on physical visits to the different structures of the entire organisation in order to have first-hand information and deeper understanding of challenges ahead. This enabled me to map out what needed to be fixed, what worked and what did not work and what the way forward should be in terms of the interventions to be put in place. This exercise took me the whole year at the end of which I had a good grasp of the situation at hand and what needed to be done and systems to be put in place.

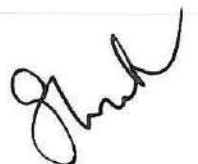
ORGANISATIONAL MISALINGMENT

42. At the outset I must point out that there were overlapping resources and responsibilities between the two (2) amalgamated entities, which at times due to poor coordination and communication resulted in wasteful and fruitless expenditure. This was due to outdated or lack of supporting policy framework in Core Business environment and Human Resources Management, leading to finance system vulnerabilities and duplication of functions and structures, dysfunctional and poor management of governance structures across the organisation. It was critical that policy and business analysis processes be activated in order to address many anomalies in the organisation.
43. In terms of the organogram there were structures which had resulted in proliferation of senior management positions more than what was envisaged in the post establishment and budget. The most affected areas included Corporate Services and Financial Management. In illustration, when I resumed my role as the Director General of SSA, there were eight (8)



Managers, at a level of Director who were reporting to the Chief Financial Officer ("CFO"). The CFO in turn was at Chief Director level. Then the CFO was reporting to the Deputy Director General: Corporate Services.

44. Clearly having the CFO not reporting directly to the Accounting Officer, as usually is norm, was a clear misalignment in the SSA causing a snag in the smooth running of the institution and accountability. To be blunt, this misalignment of reporting protocol festered sabotage of the checks and balances I had put in place. The SOPs would be bypassed with impunity. There would be no repercussions for not following SOPs and no wrongdoer would be held accountable.
45. I have to be forthright in saying that this chain of command where the CFO was not reporting to the Accounting Officer and the level at which it was pitched was not only problematic, but was in direct conflict with National Treasury Regulation 2.1.2 where CFO is accountable to the Accounting Officer. This created many challenges in as far as execution of my responsibilities as the Accounting Officer in terms of the PFMA and I must add was not in line with Treasury Regulations and the PFMA.
46. The extent to which CFO received instructions directly from the political principal also created another difficulty. As an Accounting Officer this made it difficult to execute my responsibilities. The CFO would simply ignore or defy the instructions I issued leading to undoing controls and malfeasance. A further frustration is that I could not initiate disciplinary proceedings because the CFO was accountable to the Deputy Director General: Corporate Services. In other words, in terms of the organisational structure disciplinary



processes against the CFO could only come through or with the blessings of the Deputy Director General: Corporate Services so to speak. (It was the purview of the DDG Corporate Services)

47. It is worth mentioning that the former Minister, Mr Mbangiseni David Mahlobo, was informed about these skewed reporting lines, post level occupied by the CFO and the negative impact this had on the ability of the Accounting Officer to execute my responsibilities in terms of the PFMA.
48. In light of the shortcomings I have alluded to, I made a proposal to the former Minister that the organogram or the structural arrangement be changed. I suggested that a review of the position of the CFO and that line function's accountability should be done in line with National Treasury Regulations 2.1.2 and broader public service practice. Unfortunately, the Minister declined my proposal. At the time the CFO wanted to go on sabbatical leave and did not plan returning to finance. The rejection of my proposal by the Minister disempowered me further as the Accounting Officer to hold the CFO accountable and institute disciplinary action in the event of errant conduct and this was not the first time that I raised my concern on this misalignment.
49. Challenges caused by the misaligned organogram were not unique to the Finance section; the Human Resources function had similar structural issues. The flipside of this was that these cost a lot of money, thereby inflating the personnel budget that threatened to exceed sixty-one percent (61%) expenditure ceiling as some structures in the core business environment had span of control and positions which couldn't justify managerial vacancies create.



STEPS TAKEN TO ENSURE COMPLIANCE WITH APPLICABLE FINANCE AND OPERATIONAL REGULATIONS AND DIRECTIVES

50. I therefore embarked on strengthening internal governance and accountability systems such as Budget Management Committees (BMCs), Bid Adjudication Committee (BAC), defining the mandates, roles and responsibilities; composition and protocols. I also aligned the Standard Operating Procedures ("SOPs") to applicable policy framework thereby enforcing compliance.
51. As part of my priorities, I institutionalised a culture of planning. I made sure that budgets are aligned to "smart" plans, and there was continuous in-year management monitoring and reporting. I inculcated a culture of setting priorities in particular with regard to the Top Management and the BMCs with predictable procurement plan for the year.
52. I organised that a review of the Operational Directives such as remuneration of agents and contacts (OD.04); covert operations (OD.09); and Ministerial Payment Directions ("MPD") be conducted. In so doing a benchmarking exercise on auditing with other intelligence organisations was done with all other intelligence structures such as Crime Intelligence and Defence Intelligence mandated by Ministers of Security Cluster at the time.
53. In a bid to correct internal measures and controls that were in disarray, I undertook the following: -
- 53.1 obtained approval of Operational Directives, for example OD. 04, and OD.09. Conducted periodic policy reviews where necessary and developed some where there was none;



- 53.2 on numerous occasions issued instructions to the CFO to activate built-in control mechanisms in the SAP financial system and strengthen internal controls to improve accountability;
- 53.3 utilised the Audit and Risk Committee as an additional governance layer to hold the Deputy Directors' General accountable for their operations by attending quarterly audit committee meetings and holding their quarterly BMC;
- 53.4 resuscitated governance structures that were just on paper such as monthly and quarterly in-year management monitoring and reporting through various Budget Management Committees. The Heads and Management of Branches which were supported by Cost Accountants were responsible for the establishment and functioning of these budget Committees in their areas of responsibilities, flowing from the BMC of the SSA;
- 53.5 granted an employment contract to a retired Auditor and former SSA employee to assist in developing BMC Charters; aligning of internal policies and practices with regulatory framework; developing SOPs; training of Cost Accountants and Management;
- 53.6 established an Anti-Corruption Unit and Risk Chief Directorate, flowing from the National Anti-Corruption Task Team of JCPS cluster;
- 53.7 gave an instruction to the CFO that the Chief Directorate Special Operations ("CDSO") Standing Advance be closed and the money be returned back to Finance at Head Quarters;



- 53.8 initiated realignment of bloated structure to reduce blurring of lines in finance by cutting down management positions from eight (8) to three (3). Applying similar interventions in the Human Resources line function;
- 53.9 instructed the CFO to establish in-house travel management capacity and terminate travel contracts that were continuously renewed on a monthly basis at the time of my arrival. This instruction was never carried out by the CFO, unfortunately as he repeatedly defied my instructions to BAC. The record of the BAC in the 2014/15 to 2016/17 financial years may bear testimony to my instruction(s) not being obeyed;
- 53.10 I now interpose to mention that emanating from BMC discussions on high cost of leases and service contracts; I established a team whose mandate was to explore various ways to escalating down costs of leases both domestically and abroad. This mandate included but was not limited to looking at space norms and standards; rental vs acquisition of property; and property market analysis. By the time I left SSA the task had not been completed and as such the report had not yet been submitted;
- 53.11 during the financial year 2016/17, I requested the newly appointed Chief Director: Infrastructure and Logistics to verify travel accounts payments and identify weaknesses in the payment processes. I left SSA before the report was finalised. Money was lost through online



payments of fake accounts which case was referred to the Hawks for investigation;

53.12 the composition of the BAC was reconfigured wherein the Director Foreign Branch replaced the CFO as its Chairperson and later replaced by the Acting DDG as new Chairperson. I ensured that Senior Managers and people with requisite experience, specialised knowledge and skills were appointed as members of BAC. The quality of recommendations by the BAC drastically improved; and

53.13 in the process, approximately R42 million of outstanding Temporary Advances with more than ninety (90) days taken by members from CDSO Standing Advance was recovered.

54. Notwithstanding these inroads there were still challenges plaguing SSA, for instance authenticity of accounting documents could not be verified due to lack of access to CDSO financial records. What made things to be more difficult was the resistance by officials in finance to grant access to the financial records citing covert nature of transactions. What also became a shock was the outstanding debt against the Head of Internal Control Unit whereby monies were taken from the CDSO standing advance.

55. Upon these revelations, the former Director Domestic Branch instituted measures whereby the authority to approve Temporary Advances above R50 000-00 was escalated to the Director.

56. Given these challenges, I took it upon myself to initiate and establish a Memorandum of Understanding (MOU) between offices of AGSA and OIGI on auditing of covert intelligence structures. Once more, at the time I left SSA

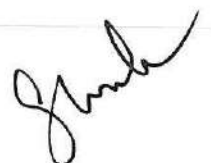


the implementation of MOU was still at its initial stages wherein two (2) financial years were being audited.

57. I must also mention that in line with Operational Directive: OD.09, I engaged Operational Management about a concept to institutionalise Project Proposal Approach which was never implemented before for approval of covert projects and related budgets. I left SSA at the time of implementing this concept.

UNDOING OF CONTROL MEASURES

58. It is imperative that not only was there sabotage or defiance by the CFO pertaining to the control measures that I had put in place, but I experienced direct interference from my political head who had oversight authority on SSA. In this regard, the then Minister would instruct the CFO directly, in the process bypassing me.
59. The former Minister would seek funds from the CFO claiming to be running his operations. This would be under the guise of special operations. I must now pause to mention that these operations would not be in respect of projects that had been approved and funded, in terms of measures set out in the SOPs. In a nutshell, this was undermining my authority and sabotaging the steps I had put in place to ensure compliance with internal governance, leading to complete breakdown of working relations with the former Minister.
60. As I have already alluded at paragraph 28 above, I must emphasise that the interference by the Executive Authority on the operations of SSA was in direct conflict with key policy issues pertaining to division of responsibility as could be found at paragraph 4.1 of the PFMA. Clearly the former Minister acted outside his mandate as the Executive Authority.

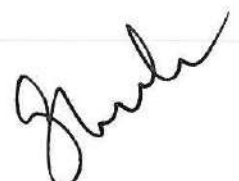


61. The issue of accountability for covert operations was a problem and how decisions were taken to allocate resources to different structures were sometimes compromised. Many members owed SSA a lot of money and there were no consequences for their unaccountability, hence the review of OD.04 (remuneration of agents and contacts) and OD.09 (covert operations) to tighten accountability.
62. In 2015, I discovered that there were serious control weaknesses in the management of Standing Advances for covert structures in particular the CDSO Standing Advance. As required in terms of Treasury Regulations on Banking and Cash Management particularly paragraph 15.10.1.2 (j) and FID: 03 paragraphs 16.1 (reconciliations) and 16.2 (monthly re-imbursements of Standing Advances), CDSO was not preparing reconciliations on a daily and weekly basis as required. In addition, there was no record CDSO was submitting monthly reconciliations on a regular basis to the responsible structure in finance at Head Quarters.
63. However, finance perpetually replenished the Standing Advance when required to do so by CDSO without accountability and following processes. The basis of replenishment had since not been clarified, at least during my tenure as the Accounting Officer. This situation was deliberately allowed to avoid accountability in order to perpetuate fraud.
64. With the approval of the CFO as required in terms of FID.06 (Financial Directive regulating Temporary Advance), CDSO members and in certain cases the Head of the Internal Control Unit took temporary advances from the Standing Advance of CDSO at different times without accounting for the



previous temporary advances. Members would not account for the temporary advances over ninety (90) days without any consequences. This was prevalent in CDSO and I was not privy to it. This untenable practice resulted in deficiencies in the internal control environment. Needless to say that this state of affairs took place under the watch of the CFO.

65. The involvement of the Head of Internal Control Unit in the activities of CDSO and in such malpractices was equally shocking. This is an official who is required in terms roles and responsibilities of the CFO structures to assist management to ensure the internal control environment is effective and strengthened at all times to mitigate the risk of malfeasance and fraud which was very high in finance.
66. It would appear the official was exploiting weaknesses in internal control environment. The same official who is office bound had a cell phone bill that was more than 100% above the approved limit. This is in contravention of FAD.11 on official cell phones in particular cost effective use of official cell phone.
67. Abuse of communication devices was prevalent across SSA with certain officials incurring expenses in excess of R50 000-00 per month. In addition, SSA had a lot of unknown landlines which were incurring expenditure resulting into average cost of approximately R3 million per month. It appeared there was improper conduct amongst SSA officials.
68. CDSO with the assistance of the CFO would circumvent budget and approval processes in practice. Of hand, I can vouch that the CFO acting in cahoots



with the CDSO circumvented SOPs to obtain my approval of financial submissions on the operational projects.

69. As far as I know, the following projects were not approved because they should have been funded in the CDSO baseline allocation and subject to availability of funds. Accessing retained earnings for current expenditure was contrary to Treasury Regulation prescripts and our commitments to Treasury.

69.1 Construção;

69.2 Wave;

69.3 Khusela;

69.4 TinRoof;

69.5 Academia; and

69.6 Mayibuye.

70. I got to know that monthly budget and expenditure reports were never submitted by CDSO to the Budget Office. Consequently, overspending could not be accounted for. Despite numerous requests to responsible Branch Financial Management to submit budget and expenditure reports including explanation of material variances, as required in terms of Section 40 (4) (iii) of the PFMA, those were ignored. As a result, I could not report accurately on the budget and expenditure of the branch as the Accounting Officer. I stopped the funding of these projects by not approving them.

71. Upon realisation of what was happening, I issued an instruction to re-activate built-in expenditure control mechanism referred to as "funds availability check" at cost element item level and not at cost element group in the SAP system as



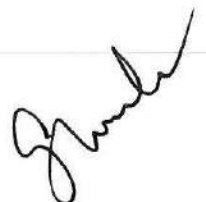
preferred by the CFO. This was necessary because transacting is done at cost element item not at group level. This too was continuously ignored by the CFO notwithstanding clear instructions to keep activation at cost element item level. This resulted in budget over-runs, in particular with the CDSO perpetually incurring expenditure without availability of funds. This constitutes contravention of Section 38 (2) of PFMA.

72. The manner in which these changes on SAP financial system were done was inconsistent with applicable governance on "ICT Change Management Control Process and Standard Operating Procedure", and in contravention of MPD delegation 1.8.4 on transfer of funds from one General Ledger account to another. It was repeatedly done against the concerns of finance management and my instruction. To this end, I refer to "ICT Change Request Approval Form" ticket number **H56835** with transport number **DVSK912884** which I annex here and marked, "**SK 3**".
73. If there are insufficient funds in a particular the General Ledger Account, there is a defined process in terms of the MPD delegation 1.8.4 regarding transfer of funds from one General Ledger Account to another to augment shortage of funds. I could not fathom any reason except that this would seem this was a deliberate practice to circumvent policy prescripts and SOPs.
74. The CFO would circumvent policy prescripts and sign ICT software renewal licences without delegated authority in terms of the MPD delegation 2.9.23. Another example in this regard, the CFO signed an ICT software renewal licence agreement contrary to MPD delegation 2.9.23, which prescribes that



only the Accounting Officer is authorised to enter into such agreement on behalf of SSA. By this conduct, the CFO breached the MPD.

75. Given the stance I took in ensuring that there was compliance with the legislation, MPD and SOPs, this attracted the ire of the Minister. The pressure exerted by the Executive was so immense to an extent that the Minister would neglect to sign policies presented for approval in want of reinforcing checks and balances for governance measures and my reciprocal trips to my counter parts were never approved and this was now impacting the work of the organisation directly.
76. This culminated in the former Minister not even signing my performance contract, which was only done in 2016 years later, after having gone to the lawyers. I even experienced late payment of my pension benefits, after I had resigned because he was refusing the papers for my pension benefits and pay-out.
77. It is imperative to bring to the attention of this Commission that another quagmire which was sinking the SSA was malfeasance in procurement of goods or services.
78. To illustrate the challenges that SSA faced during my tenure is that the system of procurement and provisioning of goods or services didn't recognise the five pillars of procurement, namely, that it must be:
 - 78.1 fair;
 - 78.2 cost effective;
 - 78.3 competitive;



78.4 transparent; and

78.5 equitable.

79. The aforementioned pillars are required in terms of Section 38 (1) (iii) of the PFMA. In this regard, certain suppliers or contractors were favoured and prices were inflated. This was prevalent in travel management, service contracts and leases.
80. I now pause to mention that SSA inherited travel management contracts from the former SASS and entered into other travel contracts which were perpetually extended. In addition to this challenge, there was no system to verify travel invoices and reconcile accounts prior to payments resulting in duplicate payments to fake or unknown service providers. Some of these unknown transactions were paid through SSA Dinus Club Credit Cards issued in the names of the CFO and DDG: Corporate Services to whom the CFO was reporting. Whilst I was the Accounting Officer of SSA, the CFO never furnished me with financial records of these credit cards.
81. The CFO would present numerous excuses and persuade the BAC and myself to authorise renewal of travel contracts despite expressed concerns regarding poor service; lack of competition and cost. There were allegations that some Senior Members of SSA were benefiting from these contracts. At the time of finalising my affidavit I have not been furnished with a record of BAC (minutes & audio) for the period 2014/115 – 2016/17 on renewal of travel management contracts.

UTILISATION OF RETAINED EARNINGS OR UNSPENT FUNDS



82. The Secret Services Account Act, 56 of 1978 provides for establishment of Security Services Special Account for control and utilisation of unexpended balances or unspent funds in the budgets of security services. The unexpended balance can only be accessed through the approval of the Minister of State Security and there is no requirement to do so in concurrence with the Minister of Finance.
83. At the time of leaving the SSA, the unexpended balances or unspent funds was close to R1 billion. In my tenure through our MTEF submission, I made commitments to National Treasury to use these funds to address capital and infrastructure requirements such as equipment for Information and Communication Technology (ICT), National Communication (NC), judicial interceptions for Office of Interceptions Centre (OIC) and acquire properties with intent to down manage the escalating cost of leases domestically and abroad.
84. As per the instruction of the former Minister, contrary to commitments that were made to Treasury and advice to the then Minister not to use these funds for current expenditure or consumption, in 2015 the former Minister in cahoots with the CFO directed access to the retained earnings of R130 million, of which R90 million was allocated to fund CDSO operational projects and to clear CDSO budget overruns, R20 million for Foreign Intelligence. Subsequently, the (Minister) also asked R20 million for his projects which he requested to be included in CDSO budget. As an accounting officer I did not know a clue about Minister's projects which required funding.



HUMAN RESOURCES AND STAFF COUNCIL ISSUES

85. As at the time I took over the reigns as the Accounting Officer at SSA, always topical and often raised by the Staff Council (equivalent of a Trade Union) was the issue of benefits offered to the members of SSA by the various insurance companies.
86. A certain insurance policy was offered to employees by SSA through a private insurance company. It was negotiated by Corporate Services senior management on behalf of employees. The gripe that the Staff Council had in this respect was that monies were deducted from the salaries members and were not getting pay-outs of benefits from the insurance policies. In a nutshell the Staff Council acting on behalf of members felt that they were being swindled. When I abdicated my position as the Accounting Officer the issue was still unresolved.
87. Eroding staff morale at the SSA was a human resource related problem of stagnation on a significant number of the members that had reached the highest notch on their levels within their salary bands, with some members having been at the same level for a period of fifteen (15) years or more without any prospect of moving to a higher level. This meant they had reached a ceiling.
88. Consequently, there was high labour turnover in the agency. SSA could not retain its critical skills base due to lack of career progression system in its HR policies. There was inadequate HR policy framework, lack of Human Resource Plan (HRP) and lack of skilled HR management to attend to employee social issues, development and growth in the workplace.



89. The problem was apparent with members who had returned from postings abroad who were then not placed in any position and continued not to be utilised even though they were paid salaries as alluded earlier due to the powers that were taken from the Accounting Officer in relation to Managers and General Managers. This had adverse effect on Return on Investment (ROI) on Compensation of Employees' (CoE) budget and could not be far from waste of limited resources. Exacerbating and complicating the problem further was also the ageing human resource which had to be complemented with an innovative and efficient recruitment strategy, which included the Cadet programme.
90. Lingering allegations were that some members were rewarded for loyalty to management by being catapulted to foreign posting whilst others were punished for being dubbed to be problematic.
91. I found in terms of MPD the Executive Authority had powers to appoint Managers (Directors) and General Managers (Chief Directors) a situation I tried to correct through the review of the relevant policy but was never approved by the Executive Authority.
92. In terms of the Public Service practice, it is the Accounting Officer that appoints officials up to the level of a Chief Director (General Manager). The policy was amended at SSA and the appointment of Managers and General Managers was now in the domain of the Minister. When a review of this policy was sought, in want of correcting this anomaly, the then Minister insisted that the powers vested in him.



93. Also problematic was the grading of the post of the CFO, which was at the General Manager level and not at the Deputy Director General level as is the case with other government departments. In terms of the SSA organogram, the CFO reports to the DDG: Corporate Services and not to the DG as the Accounting Officer as per Treasury Regulations 2.1.2.
94. To some extent the labour relations policies as practiced in the SSA were inconsistent with the Employment laws and the Constitution resulting in unfair labour practices which compromised management actions or decisions. This was manifest in lengthy suspension of members without disciplinary hearings being conducted and completed expeditiously.
95. The feeling was that there would be false allegations churned against certain targeted members which culminated in trumped up charges. This had a negative impact on staff morale and in the long run resulted in replacements and wasteful expenditure due to the cost of litigation. It became imperative that SSA looks at overhauling its Labour Relations Policy as the system was questionable and in need of correcting.
96. I fostered the following corrective measures as an Accounting Officer:
- 96.1 the top Management had a three (3) day strategic planning session to specifically look into the issue of stagnation as a result of lack of career pathing. Proposals to horizontally open levels and provide more notches were made and this was not going to cost the SSA any additional money;
- 96.2 proposal on placement of returning members from foreign postings were made to the then Minister because these members were already



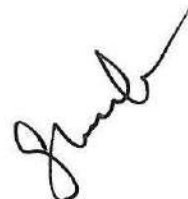
part of the post establishment and not utilising them was going to be a loss to the SSA as these members sat and languished at home without being utilised due to no fault of theirs. Regrettably, the then Minister instead saw this as a leeway for him to bring those he preferred and could pledge allegiance to him, rather than utilising it as a platform to tap on the skills and human resource that was already in the system of SSA with a great deal of experience. Members who were not in the good books of the then Minister were side-lined;

96.3 upon the CFO taking the two (2) year sabbatical, he indicated that he was not returning to the finance section of SSA when it ends. This was an opportunity to correct the misalignment of the post level and reporting lines and as such I proposed to the then Minister that professional institutions be engaged to look into the matter. As far as I know the grading and reporting line in respect of the position of the CFO remains skewed and unchanged up to now; and

96.4 initiated a process to develop a Human Resource Plan, reviewed the post establishment, managed personnel costs within set ceilings and availability of budget. I stopped filling of unfunded positions.

**CONTENTIOUS ISSUES RAISED BY WITNESSES THEREBY CASTING
ASPERSIONS OF IMPROPRIETY ON MY PART**

97. I have had liberty to listen to some snippets or have read extracts of evidence led in the State Capture Commission, which to some extent insinuates some wrongdoing on my part and I wish to take this opportunity to place my version on record.



THEFT OF SEVENTEEN MILLION RAND (R17 000 000.00) AT MUSANDA

98. On 27 December 2015 a break-in, into the safe-deposit box at the SSA headquarters took place and an amount equivalent to R17M, which was in foreign currency was stolen. This is at Musanda, which is where the headquarters of SSA are situated.
99. At the time of this theft I was outside the country on annual leave. During my absence the Director for the Domestic Branch was appointed as Acting DG.
100. The then Acting DG informed me of the theft and I immediately asked him to report the incident to the Hawks for investigation, as is the requirement in terms of Section 76 (1) (f) of the PFMA relating to liability for losses and damages. This is also a procedure laid down for recovery in terms of National Treasury Regulation 12.5.1.
101. Further, I also instructed that the former Minister must be informed and given a briefing on the matter. The other stakeholders that I requested that they be informed were the Office of the Auditor General; the DG of Treasury; the Chief Audit Executive (CAE) and the Chair of Audit and Risk Committee (ARC).
102. I continued to be in touch with the Acting DG on a daily basis checking progress and/or any developments on the matter until my return from leave whereafter I was fully briefed about the matter.
103. I hasten to state that what I found odd and disturbing was to learn that when the Acting DG requested to brief the Executive Authority the following day after the incident, the then Minister said to the Acting DG that the matter was not urgent and asked only to be briefed a week later. When the briefing



ultimately took place, I was informed that also present in the briefing session was the then Head of the Hawks and his team of investigators.

104. The attitude that was adopted in the briefing session was that all those from SSA were to be treated as suspects unless proven otherwise. This attitude prevailed even though there were members from SSA who had already been arrested. It must also be borne in mind that one of those arrested had made some confessions. Despite existence of incriminating evidence, to my shock and dismay the suspects were later released and the matter died a natural death.
105. It is worth mentioning that there was evidence in the form of a Closed-circuit Television (CCTV) camera record which showed the burglary and this was handed over to the investigators. This video record showed how the burglars stole the money in foreign currency, equivalent to R17 Million was taken in black refuse bags as the Burglars emerged from the Finance Office. The video even showed the reconnaissance that was done prior to the robbery using access to the premises by way of fake access cards that would not identify who the culprits were and some of those involved had applied for leave at the time which was approved. This video showed that there was thorough preparation prior to the robbery and that it was not the spare of the moment incident.
106. I now pause to state that about a month or two prior to the theft of the said money, the CFO had earlier applied for a two-year sabbatical leave which was approved by the then Minister. The theft of R17 Million brought about a rethink on the part of management about the going of the CFO to the two-year



sabbatical leave as he was critical to finding a solution because he was the responsible functionary for Finance Section.

107. Relevant to the solution were the following questions:

107.1 Why was so much money requisitioned and kept in the Office when most of the members were on leave, given that the members who were responsible for the running of the projects would not be able to give instructions and take responsibility over the money?

107.2 If it was requisitioned, why the money was not immediately dispatched to the project owners who had requested it, after it had been delivered by the various banks from whom it was sourced?

107.3 Why were members of the Finance Section who reported for duty on the day after the burglary did not report to their Superiors immediately that they found tampering with amongst other things the door to their office, as the discovery of the theft of money only took place at about 11:00 AM?

107.4 What was the policy in respect of how much money could be kept in the office? If the amount exceeded the limit allowed in terms of the policy, why the policy not adhered to?

108. I must add that upon my return I was shown CCTV video record of the theft of money. I observed that the burglary was planned as there was a dry run which started some few days prior the actual hit (burglary).

109. On the day of the hit, the Burglars made a mistake of not disabling CCTV camera on the floor they were to break-in but instead disabled cameras on the

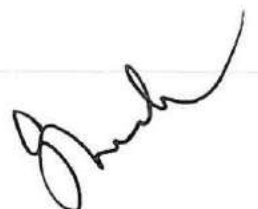


wrong floor hence we were able to get the footage. The implicated members were subjected to the vetting process they all failed which came as a surprise to those who were implicated because they thought that they had disabled the cameras. Yes, they did disable the cameras only that it was the cameras on the wrong floor that were disabled. After all this, those members who were involved in this crime when subjected to the vetting process. Needless to say that all the implicated members failed the vetting process.

I am still baffled by the fact that this crime remains unresolved despite the glaring evidence put at the disposal of the Hawks. Without casting aspersions, one cannot avoid to suspect that there is some collusion that this matter goes away.

OPERATIONAL BUDGET IN THE OFFICE OF THE DIRECTOR GENERAL

107. When I got to SSA there was a Liaison Project that focussed on peace entrenchment in support of development initiatives on the continent. The project was run in the office of the Director General. However, a certain structure in the Foreign Branch was hosting the budget for the project. It was an arrangement I found in place before my arrival. It was not a covert project in terms of Operational Directives OD.09. However, due to sensitivity of the project and a need to protect the identity of stakeholders, for the purposes of budgeting and expenditure management covert GL Accounts were then utilised. Later, on the basis of PFMA "funds follow function principle", it was proper to move the budget from Foreign Branch to the Office of the Director General and adjust it as per project plan. It had a project plan, timeframes and the budget. It was audited by Auditor General and when I left I made sure that the project was fully accounted for.



CONCLUSION

110. I found the organisation with huge challenges when it came to accounting to the office of the Auditor General ("AG"), there was some resistance, which was going to lead the Agency towards a disclaimer in terms of the auditing of covert projects.
111. I interpose to mention that the larger part of intelligence activities comprises overt projects and the covert ones constituted less than five percent (5%). In want of bridging the gap and undo the resistance I have alluded to, I brought together the offices of Inspector General ("IG") and that of AG through the signing of an MOU between the two institutions to that extent certain identified individuals were trained within the office of the IG by the AG to deal with auditing of those projects that are sensitive and covert in nature. This helped us cover some significant ground in terms of accountability for the covert projects.
112. I hasten to add that most of the covert projects upon my arrival were run without proper project proposals that were to give a concept of the project, timeframes, budget, intended outcomes and basically not knowing the basis for the funding of such projects. In this regard, it is opportune to state that this was not in line with OD.09.1 which regulates authorisation and conduct of deep cover projects. I wish to draw particular attention to item 6 of OD.09 which unambiguously requires that the establishment of a cover project be preceded by thorough planning, which must be reduced to writing and serve as the basis for writing submissions for the utilisation of the cover projects and obtaining of approval. Item 7.1 of the said OD.09.1 requires that all cover



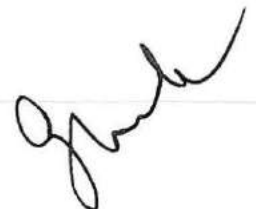
projects be authorised by the concerned Director who then owns the project after consultation with the Director-General.

113. It subsequently transpired that unlawful and illegal projects would be added to approved projects without my knowledge and those that allowed withdrawal of monies for such projects did so knowing that this was against policy prescripts and/or SOPs.
114. Those who were supposed to ensure financial compliance and that financial controls were in place and adhered to did not do their work, instead they seized the opportunity and illicitly withdrew money for personal gain.
115. Sadly, the financial controls that served as a safeguard were disabled by the office of the CFO and allowed wrongdoing on a large scale. This happened without my knowledge, and only discovered when CDSO annual budget allocation got depleted within three (3) months of one particular financial year.
116. This happened despite my concerted effort in strengthening control mechanisms in the form of SAP financial system and other internal controls. The CFO defied my clear instructions.
117. During my tenure, in want of circumventing the challenges I found at SSA, I employed the following mechanisms:
- 117.1 utilised the Audit and Risk Committee as an additional governance layer to hold the DDGs accountable for their operations and resources both financial and human;
- 117.2 institutionalised monthly and quarterly in-year management monitoring and reporting through various BMCs. The Heads and



management of branches supported by Cost Accountants were responsible for the establishment and functioning of these BMCs;

- 117.3 utilised services of a retired Auditor and former SSA employee to assist in developing Budget Management Committee Charters, aligning internal policies and practices with regulatory framework, developing standard operating procedures, training of cost accountants and management;
- 117.4 reconfigured the composition of the BAC by replacing the CFO as its Chairperson with the Director: Foreign Branch. Also appointed Senior Managers and members with requisite experience, specialised knowledge and skills;
- 117.5 established the Anti-Corruption Unit and Risk Chief Directorate that was not in existence before;
- 117.6 tightened procedures for getting Temporary Advances (TA);
- 117.7 ordered that the CDSO Standing Advance be closed and remaining money be returned back to finance at Head Quarters;
- 117.8 making lean the bloated structural arrangements in finance by reducing management positions from eight (8) to three (3). I also applied similar interventions in HR;
- 117.9 merged ICT and NC functions into one branch to improve coordination of efforts and sharing of resources such as human; database; and licenses. As a result, certain services contracts were merged resulting in cost savings with more efficiency and effectiveness;



- 117.10 instituted verification of all SSA landlines, checking usage mobile and landline communication services. Implementing checks and balances to guard against possibility of improper conduct between SSA officials and employees of service providers in want of prevention malfeasance, potential fraud and corruption;
- 117.11 established a team to explore various ways to manage escalating cost of leases both domestically and abroad and devise means of reducing such cost by looking at space norms and standards, rental vs acquisition of property, and property market analysis;
- 117.12 instructed the CFO to establish in-house travel management capacity and terminate travel contracts. The records (minutes & audio) of the BAC in 2014/15 to 2016/17 may reflect this discussion;
- 117.13 requested the newly appointed Chief Director: Infrastructure and Logistics to verify travel accounts payments and identify weaknesses in the payment processes;
- 117.14 established a Memorandum of Understanding (MOU) between Offices AGSA and OIGI on auditing of covert intelligence structures. At the time I left SSA, implementation of MOU was beginning to bear results;
- 117.15 engaged Operational Management about a concept to institutionalise Project Proposal Approach for approval of covert projects and related budgets. I left the Agency before a decision was made on the concept; and
- 117.16 I did all this at the risk of own life. It was a concern that things should be addressed to get the Agency back to stability to that extent, I did a



document I submitted to the President covering work I have done to improve the environment, as well what was still outstanding and how we're proud in salvaging the place because a well-structured, disciplined intelligence is central to our democracy.

118. With the foregoing, I dispel any wrongdoing on my part for the ills of the organisation and challenge anyone with information or evidence to the contrary to provide same and afford me an opportunity to rebut instead of casting aspersions on my integrity on unfounded allegations.


DEPONENT

*I certify that the Deponent has acknowledged that he or she knows and understands the contents of this affidavit, which was signed and sworn to before me at PRETORIA DHQ on this the 14 day of **April 2021**.*

In administering this oath, the requirements of the regulations contained in Government Notice No. R1258 of the 21st of July 1972, as amended, and Government Notice No. R1648 of the 19th of August 1977 as well as Regulation R2477, 16 November 1984, as amended, have been fulfilled.


COMMISSIONER OF OATHS





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ⁿSK1ⁿ
Office No 242
2nd Floor van Erkom building
217 Pretorius Str
Pretoria

Ref No: TC/AT/0014/21SK

Ref No:

DATE: 04 February 2021

TO: THE ACTING DIRECTOR GENERAL
STATE SECURITY AGENCY (SSA)
REPUBLIC OF SOUTH AFRICA

CC: [REDACTED] CES
SSA

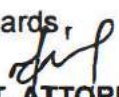
Dear Acting Director General,

**AMBASSADOR S. KODJOE // JUDICIAL COMMISSION OF INQUIRY INTO STATE
CAPTURE- REQUEST FOR INFORMATION**

1. We are acting on behalf of Ambassador S. Kodjoe (our client) in the matter refer to the above and kindly request your office to furnish us with the information listed in documents annexed hereto as, Annexure, "SK 1".
2. We require this information contained on "SK1" to assist our client to present her version events during the period in which she was Director General at your institution and protect her legal rights and to assist the Commission to arrive at informed understanding the sequence of events.
3. We will appreciate your assistance if your can provide us with the requested information within 5 days of receipt of our letter.

We look forward to your kind assistance.

Kind Regards,


CHITHA T. ATTORNEYS INC.

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IN THE JUDICIAL COMMISSION OF INQUIRY INTO THE STATE CAPTURE
VS
SECRETARY GENERAL FOR THE SOUTH AFRICAN NATIONAL DEFENCE FORCE

REQUEST FOR DOCUMENTS

KINDLY TAKE NOTICE THAT, we are acting on behalf Ambassador Kodjoe in the above matter and we, therefore, request your goodselfs to furnish us with the following documents:

1. **Amys & Tageta** outlook Communique- on CDSO Overspending for the following dates: 5 May 2015, 13 May 2015, 10 June 2015 and 22 July 2015,
2. BMC 2014 June 13
3. BMC Minutes- 2014 August 19
4. BMC Minutes-2015 March 31
5. BMC Minutes-2015 October 30
6. BMC Minutes-2016 February 16
7. BMC Minutes-2016 March 23
8. CDSO Progress Report by **Amys** –outstanding TA
9. 02/09/2015
10. DG Office Budget-2013/14- 2017/18
11. ICT System change request from- Activation of funds availability check- 10 April 2015

12. Instruction on temporary advances & cash disbursement by Dr Langa- 08 April 2016
13. Instruction to CFO to close SO Standing Advance- 14 August 2015
14. Letter Ms Kudjoe to Acting DBO1 Mr ST Dlomo- 04 June 2015
15. Letter Ms Kudjoe to Minister Mahlobo- CDSO Overspending- 04 June 2015
16. Management Accounting SOP- In Practice
17. MTEF estimates 2014
18. MTEF estimates 2015
19. MTEF steimates 2016
20. Non- Activation of control- letter by Sonto to **Matthew** 12 March 2014
21. OD-09 and OD-04 in practice
22. Project Acadmeia 31 May 2016
23. Project Construc ao 31 May 2016
24. Project Khusela 31 May 2016
25. Project Mayibuye 21 May 2016
26. Project Tinroof 30 May 2016
27. Project Wave 31 May 2016
28. Realignment of the Directorate F130- 29 April 2016
29. SO Budget Report 2013/14 2017/18
30. Temporary Advances Policy- FID. 06 in practice
31. Utilization of retained earnings- 04 November 2015
32. Utilization of retained earnings- 30 August 2016
33. Internal budget allocation letters to branches or programmes-2014/15 to 2016/17

- 34. Audit benchmark report 2014/2015 to 2016/2017
- 35. Audit committee minutes for the 2014/15 to 2016/2017
- 36. Former DG's visits to various structures of SSA-Report 2013/2014-2016/17
- 37. Approved copies of Temporary Advances, TA22/02/2014 and TA 45/07/2014 submissions and accounting document in respect of Mr **Tageta**



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1'SK 2''

Ref No: TC/AT/0014/21SK

Ref No:

DATE: 04 March 2021

TO: THE ACTING DIRECTOR GENERAL
STATE SECURITY AGENCY (SSA)
REPUBLIC OF SOUTH AFRICA

CC: MR. XXX
THE LEGAL SERVICES
SSA

Dear Acting Director General,

**AMBASSADOR S. KODJOE // JUDICIAL COMMISSION OF INQUIRY INTO STATE
CAPTURE- REQUEST FOR FURTHER INFORMATION**

1. We refer to our letter of 4th February 2021 and acknowledge receipt of the information we requested after the signing of the oath of secrecy. Upon perusal of the information in the file we need further information to enable us to assist our client.
2. In the premises, we kindly request further information as listed below:
 - 2.1. SSA Bid Adjudication Committee (BAC) discussions (recording, minutes, and certificates) for the period 2014/15 – 2016/17 on extension of all travel contracts.
 - 2.2. SSA Ministerial Delegation of Powers and Direction of Payment (MPD)
 - 2.3. SSA video recording on theft of R17 million at Musanda in December 2015
 - 2.4. Record of instruction to IT, dated April 2015, by the CFO to deactivate funds availability check at cost element item and activate it at cost element group.
 - 2.5. SSA Microsoft Volume Licensing Agreement dated 29 April 2014.



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- 2.6. Internal Travel Accounts verification report for the period 2014-2016.
- 2.7. Internal report on verification of landlines and mobile communication usage for the period 2014 – 2016.
- 2.8. Approval to refund official cell phone calls made by Mr **Tageta**, dated 04/10/2013 and 13/06/13.
- 2.9. Internal policy on official cell phone.
- 2.10. A letter by the acting CFO which confirms that the management of CDSO Standing Advance complied with applicable policies i.e. PFMA and internal financial directives for the period 2013/14 to 2016/17.
- 2.11. Internal policy on Banking and Cash Management.

3. We look forward to your kind assistance.

Kind Regards

CHITHA T. ATTORNEYS INC.
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Email: thobile@chithatattorneys.co.za

Additional Information Request

1. SSA Bid Adjudication Committee (BAC) discussions (recording, minutes and certificates) for the period 2014/15 – 2016/17 on extension of all travel contracts.
2. SSA Ministerial Delegation of Powers and Direction of Payment (MPD)
3. SSA video recording on theft of R17 million at Musanda in December 2015
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5. SSA Microsoft Volume Licensing Agreement dated 29 April 2014.
6. Internal Travel Accounts verification report for the period 2014-2016
7. Internal report on verification of landlines and mobile communication usage for the period 2014 – 2016.
8. Approval to refund official cell phone calls made by **Mr Tageta**, dated 04/10/2013 and 13/06/13.
9. Internal policy on official cell phone
10. A letter by the acting CFO which confirms that the management of CDSO Standing Advance complied with applicable policies i.e. PFMA and internal financial directives for the period 2013/14 to 2016/17
11. Internal policy on Banking and Cash Management

E2



State Security Agency

State Security Agency
REPUBLIC OF SOUTH AFRICA

TEMP ADV NO:

CLAIM NO:

DOCUMENT NO:

DOCUMENT NO:

TI6050532

1

F1367

1522090409 \$11

TEMP ADV NO: TI6050532

CLAIM NO: 1

DOCUMENT NO: F1367

DOCUMENT NO: 1522090409 \$11

SECTION 1 - EMPLOYEE DETAILS

NAME: I

ASHLY

APPOINTMENT NO:

Division/ Unit

DG01

SECTION 2 - MOTIVATION

NATURE OF EXPENSE: COVERT

MEMBER EXPENSES

APPROVAL IS ATTACHED

SOURCE EXPENSES

APPROVAL IS ATTACHED

DURATION OF TRIP

1 MAY 2016 - 31 JULY 2016

SECTION 3 - COST IMPLICATIONS

MOUNT REQUIRED ZAR:	NATURE OF EXPENSES		
	TRAVEL EXP	ALLOCATION	AMOUNT
MOUNT REQUIRED FOREX:	AIRTICKET FOREIGN	474231	
MOUNT IN WORDS (ZAR):	AIRTICKET LOCAL	474230	
	TRANSPORT, Intern	474280	
	ACCOMMODATION:Forelun	474211	
MOUNT IN WORDS (FOREX)	ACCOMMODATION:Local	474210	
	TEL CALLS LOCAL	473120	
	TEL CALLS ABROAD	473121	
	S & T ALLOW: FOREIGN	474221	
	S & T ALLOW: LOCAL	474220	
	OTHER		
	460300 Covert Action Expenditure	USD	600 000.00
	460300 Covert Action Expenditure	ZAR	400 000.00
	460300 Covert Action Expenditure		
	460300 Covert Action Expenditure		
	TOTAL FOREX:		1 000 000.00
	TOTAL ZAR:		

Signature: ASHLY

DATE: 11/05/2016

CONFIDENTIAL/SECRET/TOP SECRET

Page 1 of 4

CONFIDENTIAL/SECRET/TOP SECRET

DECLASSIFIED

PART A - EXPENSE APPLICATION FORM

SECTION 4 - METHOD OF PAYMENT

1. BANK TRANSFER		2. EFT PAYMENT		3. CASH PAYMENT			
PAYABLE TO:				MOTIVATION FOR CASH PAYMENT			
REFERENCE:							
BANK:							
ACCOUNT NUMBER:							
BRANCH CODE:				CFO APPROVAL FOR CASH			
TYPE OF ACCOUNT:				AMOUNT			
AMOUNT:				DATE			
CURRENCY:				SIGNATURE			
4. CASH PAYMENT: CURRENCY				5. TRAVELLERS CHEQUES			
CURRENCY	AMOUNT	EX RATE	TOTAL	CURRENCY	UNITS	QUANTITY	TOTAL
USD	600000	15,5007					
EUR	400000	17,3158					
GRAND TOTAL IN ZAR:				GRAND TOTAL IN ZAR:			

SECTION 5 - TERMS AND CONDITIONS

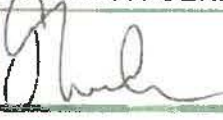
I, the undersigned do hereby declare and undertake as follows:

- I am conversant with the Directive on Temporary Advances;
- The advance will be used for official purposes only as indicated on the attached authorization;
- The advance is not drawn on behalf of another member;
- I undertake to settle the Temporary Advance within five working days of my return from a trip or immediately after the payment of the approved expense;
- All unused currencies will be paid back to the SSA immediately upon return;
- Unaccounted money will be automatically deducted via PAYROLL in terms of the PFMA and Treasury Regulations;
- I note and accept that unaccounted money will be deducted from my salary;
- Deductions shall be made from my basic salary. All deductions are subject to the maximum amount of 25% of basic salary;
- The loss of funds will be dealt with according to paragraph 14 of the Temporary Advance Policy (FID06)

I read and accept the: Temporary Advance

APPLICANT'S SIGNATURE: ASHLY DATE: 17/05/2016

APPROVAL BY LINE MANAGEMENT

NAME	AMB S. KUDJOE
DESIGNATION	DIRECTOR-GENERAL
SIGNATURE	
DATE	18-May-16

RECEIPT

RECEIVED: (ZAR) (IN WORDS)

RECEIVED: FOREIGN CURRENCY (IN WORDS): Six hundred thousand US Dollars and Four hundred thousand Euros

Helen 27/05/2016

HELEN

DECLASSIFIED

CONFIDENTIAL

DECLASSIFIED

**state security****State Security Agency
REPUBLIC OF SOUTH AFRICA**

SSA/DG01/3/4/4/2

**Office of the Director-General
State Security Agency**

17 May 2016

**Amb. Sonto Kudjoe
Director-General: SSA****REQUEST FOR AUTHORIZATION FOR A MEMBER TO TRAVEL TO A
NUMBER OF COUNTRIES TO CONDUCT OPERATIONAL DUTIES
FROM 01 MAY – 31 JULY 2016****1. PURPOSE**

- 1.1 The purpose of this submission is to request approval from the Director-General SSA for **ASHLY** to travel to a number of countries to conduct operational duties.
- 1.2 To obtain the Director-General's approval for the projected expenditure in relation to the operational duties assigned to the member. A full reconciliation of all expenditure will be submitted at the end of the August 2016.

2. BACKGROUND

- 2.1 The member has been requested to conduct operational duties abroad in respect of strengthening South Africa's collaboration with other African Union Member States on important issues considered at the AU. The project has been approved for the period 01 April 2016 to 31 March 2017. A reconciliation of expenditure to date has been received together with a report stemming from the operational work conducted.

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2.2 The project is currently in operation. Details of the operational duties cannot be disclosed in this submission.

3. FINANCIAL IMPLICATIONS

3.1 The financial implications are estimated as follows:

Expenses		Financial Implications
Return Tickets GL474231	Air	R400 000-00
Travel and related expenses GL		R150 000-00
Accommodation GL474211		R460 770-00
Subsistence Allowance GL474221		R 50 000-00
International Transport GL 474295		R220 000-00
Visa on arrival GL 460100		R30 530-00
Entertainment Allowance GL		R170 000-00
Operational Expenses GL		R16 300 000-00
TOTAL		R17 781 300-00

Funds are available under Cost Centre DG01.

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4. AUTHORIZATION

It is recommended that the Director approve the projected expenditure outlined in paragraph three (above) in relation to the operational duties assigned to the member. A reconciliation of all expenditure for the period under reference will be submitted at the end of the April 2016.

5. AUTHORIZATION

This submission complies with applicable delegation of powers contained in the *Ministerial Delegation of Power and Direction of Payment* (MPD) as approved on 14 February 2014 and effective 01 March 2013. In accordance with the MPD (sections: 2.2.2.1, 2.4.4, 5.1.1 and 5.2.5) the Director-General can approve the expenditure.

Compiler

HELEN

Office Manager to Director General: SSA

Recommended / Not Recommended

Mr.

MATHEW

CHIEF FINANCIAL OFFICER

Date: 25/05/16

Approved/Not Approved

AMB. SONTOKUDJOE
DIRECTOR-GENERAL: SSA

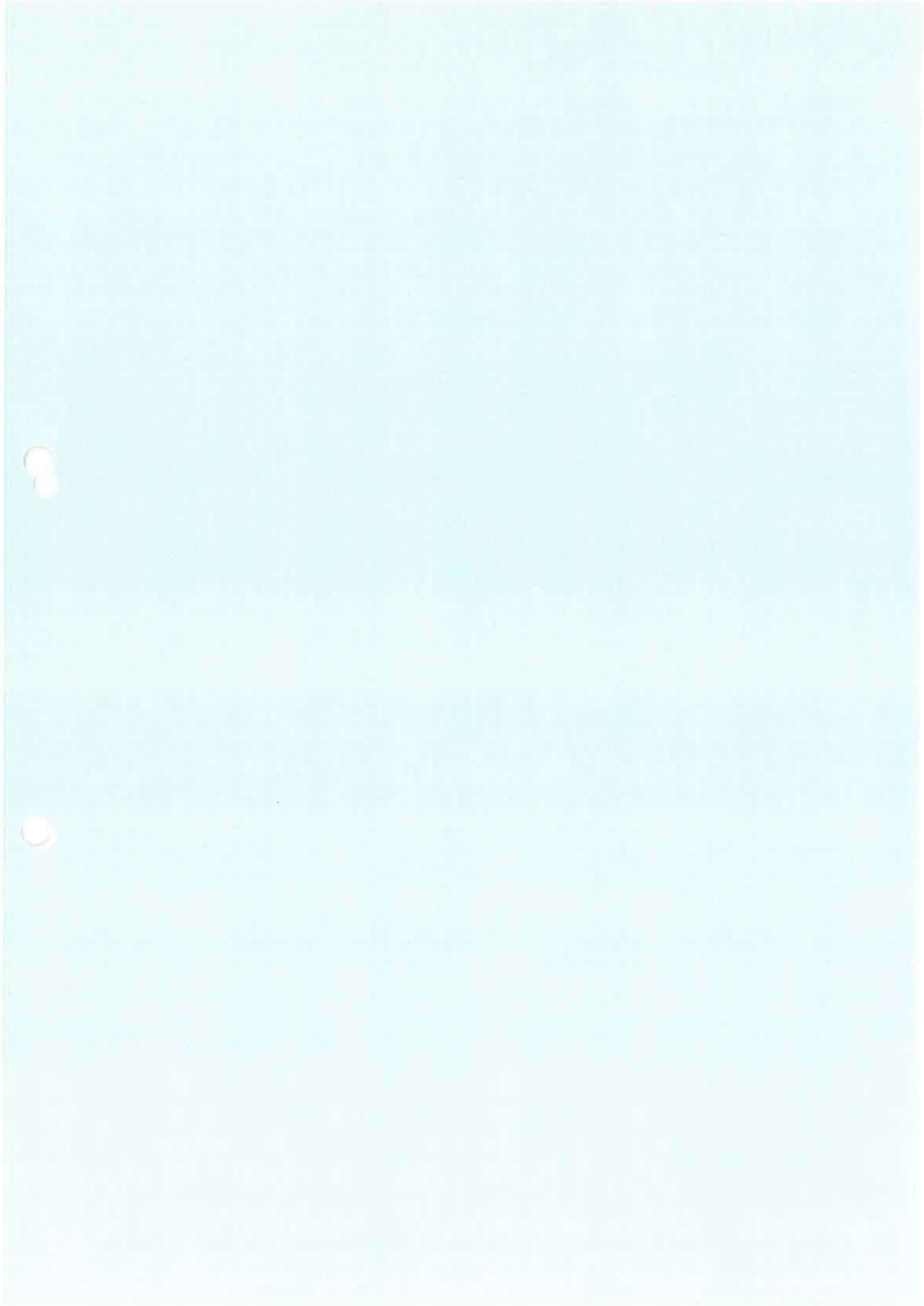
Date: 25/05/16

4. ASHLY , member number:
hereby confirm that I have authorized
HELEN , member number: to
collect the TA issued to me in March 2016 and
May 2016 on my behalf.

ASHLY

1 March 2016

FILE



FILE COPY

TEMPORARY ADVANCE AND EXPENSE APPLICATION FORM



State Security Agency

State Security Agency
REPUBLIC OF SOUTH AFRICA

TEMP ADV NO: T16050532

CLAIM NO:

DOCUMENT NO: F136

DOCUMENT NO: 1520904094

SECTION 1 - EMPLOYEE DETAILS

NA ASHLY
APPOINTMENT NO: Division/ Unit DG01

SECTION 2 - MOTIVATION

1. NATURE OF EXPENSE: COVERT

MEMBER EXPENSES

APPROVAL IS ATTACHED

SOURCE EXPENSES

APPROVAL IS ATTACHED

2. DURATION OF TRIP 1 MAY 2016 - 31 JULY 2016

SECTION 3 - COST IMPLICATIONS

AMOUNT REQUIRED ZAR:	NATURE OF EXPENSES		
	TRAVEL EXP	ALLOCATION	AMOUNT
AMOUNT REQUIRED FOREX:	AIRTICKET FOREIGN	474231	
AMOUNT IN WORDS (ZAR):	AIRTICKET LOCAL	474230	
	TRANSPORT, Intern	474290	
	ACCOMMODATION: Foreign	474211	
AMOUNT IN WORDS (FOREX):	ACCOMMODATION: Local	474210	
	TEL CALLS LOCAL	473120	
	TEL CALLS ABROAD	473121	
	S & T ALLOW: FOREIGN	474221	
	S & T ALLOW: LOCAL	474220	
the applicant, commit myself to redeem the advance by 18 hours after r	OTHER		
	480300 Covert Action Expenditure	USD	600 000.00
	480300 Covert Action Expenditure	EURO	400 000.00
	480300 Covert Action Expenditure		
	480300 Covert Action Expenditure		
	15.55 17.29		
SIGNATURE: ASHLY	TOTAL FOREX:		11 000 000.00
DATE: 11/05/2016	TOTAL ZAR:		11 000 000.00

CONFIDENTIAL/SECRET/TOP SECRET **DECLASSIFIED**

PART A - EXPENSE APPLICATION FORM
SECTION 4 - METHOD OF PAYMENT

1. BANK TRANSFER		2. EFT PAYMENT		3. CASH PAYMENT			
PAYABLE TO:				MOTIVATION FOR CASH PAYMENT			
REFERENCE:							
BANK:							
ACCOUNT NUMBER:							
BRANCH CODE:				CFO APPROVAL FOR CASH			
TYPE OF ACCOUNT:				AMOUNT			
AMOUNT:				DATE			
CURRENCY:				SIGNATURE			
4. CASH PAYMENT: CURRENCY				5. TRAVELLERS CHEQUES			
CURRENCY	AMOUNT	EX RATE	TOTAL	CURRENCY	UNITS	QUANTITY	TOTAL
USD	600000	15,3007					
EUR	400000	17,3158					
GRAND TOTAL IN ZAR:				GRAND TOTAL IN ZAR:			

SECTION 5 - TERMS AND CONDITIONS

I, the undersigned do hereby declare and undertake as follows:

I am conversant with the Directive on Temporary Advances:

The advance will be used for official purposes only as indicated on the attached authorization.

The advance is not drawn on behalf of another member.

I undertake to settle the Temporary Advance within five working days of my return from a trip or immediately after the payment of the approved expense.

All unused currencies will be paid back to the SSA immediately upon return.

Unaccounted money will be automatically deducted via PAYROLL in terms of the PFMA and Treasury Regulations.

I note and accept that unaccounted money will be deducted from my salary.

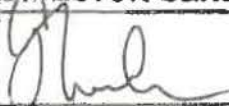
Deductions shall be made from my basic salary. All deductions are subject to the maximum amount of 25% of basic salary.

The loss of funds will be dealt with according to paragraph 14 of the Temporary Advance Policy (FID06).

I have read and accept the Temporary Advance Policy.

APPLICANT'S SIGNATURE: ASHLY DATE: 17/05/2016

APPROVAL BY LINE MANAGEMENT

NAME	AMB S. KUDJOE
DESIGNATION	DIRECTOR-GENERAL
SIGNATURE	
DATE	18-May-16

RECEIPT

RECEIVED: (ZAR) (IN WORDS):

RECEIVED: FOREIGN CURRENCY (IN WORDS): Six hundred thousand US Dollars and four hundred thousand Euros

11/05/2016

CONFIDENTIAL

DECLASSIFIED

**state security**State Security Agency
REPUBLIC OF SOUTH AFRICA

SSA/DG01/3/4/4/2

Office of the Director-General
State Security Agency

17 May 2016

Amb. Sonto Kudjoe
Director-General: SSA**REQUEST FOR AUTHORIZATION FOR A MEMBER TO TRAVEL TO A
NUMBER OF COUNTRIES TO CONDUCT OPERATIONAL DUTIES
FROM 01 MAY – 31 JULY 2016****1. PURPOSE**

- 1.1 The purpose of this submission is to request approval from the Director-General SSA for **ASHLY** to travel to a number of countries to conduct operational duties.
- 1.2 To obtain the Director-General's approval for the projected expenditure in relation to the operational duties assigned to the member. A full reconciliation of all expenditure will be submitted at the end of the August 2016.

2. BACKGROUND

- 2.1 The member has been requested to conduct operational duties abroad in respect of strengthening South Africa's collaboration with other African Union Member States on important issues considered at the AU. The project has been approved for the period 01 April 2016 to 31 March 2017. A reconciliation of expenditure to date has been received together with a report stemming from the operational work conducted.

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2.2 The project is currently in operation. Details of the operational duties cannot be disclosed in this submission.

3. FINANCIAL IMPLICATIONS

3.1 The financial implications are estimated as follows:

Expenses		Financial Implications
Return Air Tickets GL474231		R400 000-00
Travel and related expenses GL		R150 000-00
Accommodation GL474211		R460 770-00
Subsistence Allowance GL474221		R 50 000-00
International Transport GL 474295		R220 000-00
Visa on arrival GL 460100		R30 530-00
Entertainment Allowance GL		R170 000-00
Operational Expenses GL		R16 300 000-00
TOTAL		R17 781 300-00

Funds are available under Cost Centre DG01.

CONFIDENTIAL

DECLASSIFIED

4. AUTHORIZATION

It is recommended that the Director approve the projected expenditure outlined in paragraph three (above) in relation to the operational duties assigned to the member. A reconciliation of all expenditure for the period under reference will be submitted at the end of the April 2016.

5. AUTHORIZATION

This submission complies with applicable delegation of powers contained in the *Ministerial Delegation of Power and Direction of Payment* (MPD) as approved on 14 February 2014 and effective 01 March 2013. In accordance with the MPD (sections: 2.2.2.1, 2.4.4, 5.1.1 and 5.2.5) the Director-General can approve the expenditure.

Compiler

HELEN

Office Manager to Director General: SSA

Recommended / Not Recommended

Mr. MATTHEW:
CHIEF FINANCIAL OFFICER

Date: 25/05/16

Approved/Not Approved

AMB. SONTOKUDJOE
DIRECTOR-GENERAL: SSA

Date: 25/05/16

PROJECT MAYIBUYE																			
Project Establishment																			
Ref#	12/12/2014	Project Establishment Memo dated 20 January 2015 states: "The purpose of the submission is to obtain approval from Director General State Security for establishment of a cover project and payment of related expenses. The project is to be code named Mayibuye. The above proposed project is in line with the continued strengthening of operations within South African borders. with an aim of gathering, influencing, penetrate and neutralize any form of threats or potential threats capable of destabilizing the democratic rule of the Republic of South Africa. The above-mentioned detailed cover project requirements will be submitted by the Acting General Manager SO10 for recommendation by Deputy Director Counterintelligence (OB03) and subsequently for approval by the Director General State Security". Estimated amount R12 million.	Compiled by: Frank Lilly : Component Head Finance & Assets Sandy : Acting General Manager Special Operations Mathew : Chief Financial Officer ST Dlomo: Deputy Director Counterintelligence (DB03) Approved by: Amb GS Kudjoe: Director General SSA (23/01/2015)																
Temporary advance and Expense allocation forms			Memo recommended and approved by	Approval by CFO on	Member taking advance	Approval by line manager	Part B Accounting officer Approval	Settlement captured by	Receipt/ Invoice reflects	Total applicable to project									
Ref#	Date of Memo/ TA / Receipt	Description																	
M4	20/07/2015	Memo dated 20 July 2015, states "The purpose of the submission is to obtain approval from Director General State Security (DGO1) for the renewal of project Mayibuye and the funding of the project to cover the project and payment of related expenses for project Mayibuye. As a result of common objective outcomes (asserting State Authority) Project Simunye was collapsed and incorporated into Project Mayibuye as such necessitate that additional funding be requested to support all operational requirements. It should be noted that this is in line with the already approved Project Mayibuye dated 23 January 2015. Project Simunye was intended to intensify and strengthen State Authority within the judiciary system under which contact and relevant assets were to be acquired, utilized, for the purpose of positive influencing State Power and control over the judiciary." Financial implications R15 million	Recommended: ST Dlomo: Acting Director Approved: Amb Kudjoe: DG on 31/07/2015 (with comments regarding the budget approval)																
M12	22/03/2016	Memo dated 22 March 2016, states "The purpose of the submission is to request authorization from the Director General SSA (DGO1) to pay the related expenses for Project Mayibuye, Project Wave and Project Construcacoo for the month of March 2016. The withdrawal will mainly be used for the operational needs of the members and their salaries." Operation Mayibuye: R2,5 million Operation Justice: R1,8 million Operation Lock: R200 000 Operation Sesikhona: R100 000 Operation Safe Return: R300 000 Sub Total: R4, 9 million Project Wave R2 million Project Construcacoo: R2 million Total R8,9 million	Compiler: Messi : Financial Officer (unsigned) Recommended: Dwayne : Manager Financial Management Lilly : Comp Head Finance & Assets Darryl : General Manager Mathew : CFO Danny : Acting Deputy Director Counterintelligence BWJ Langa: Director Domestic Branch Approved: S Kudjo: DG on 16/04/2016										2016/04/29 for R8, 9 million	Darryl on 22 April 2016 for 8,9 million	BWJ Langa: Director Domestic Branch: 25 April 2016	BWJ Langa: Director Domestic Branch: 07 July 2016	Not attached	Napa to Vuma Management Solutions: Attention Frank ; in the amount of R4,9 million dated 20 May 2016 (Inv 12) - No VAT; for " <i>Professional Fees as per the approved contract (Project Mayibuye)</i> "	4 900 000,00



2nd floor, Hillside House
17 Empire Road,
Parktown
Johannesburg
2193
Tel (International): +27 (10) 214-0651
Tel (Tollfree): 0800 222 097
Email: inquiries@sastatecapture.org.za
Web: www.sastatecapture.org.za

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

NOTICE IN TERMS OF RULE 3.3

TO : AMBASSADOR SONTOKUDJOE
EMAIL : sonto.kudjoe@dod.mil.za

IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE (“THE COMMISSION”), YOU ARE HEREBY GIVEN NOTICE THAT:

- 1 The Commission’s Legal Team intends to present the evidence of **MR Y (“Mr Y”)** at its hearing to be held at the Old Council Chamber of the Municipality of the City of Johannesburg, 158 Civic Boulevard Braamfontein, Johannesburg. Mr Y is an operative at the State Security Agency (“SSA”). An application will be brought to conceal the identity of Mr Y. Mr Y’s evidence will be presented between **25 January 2021 and 29 January 2021** or so soon thereafter as the evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website (www.sastatecapture.org.za) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 The allegations set out in the evidence of Mr Y implicate or may implicate you in, *inter alia*, allegedly participating in various acts of corruption, bribery, fraud, money laundering and/or tax evasion.
- 3 The relevant portions of the statement of Mr Y which implicate or may implicate you in the above allegations are annexed hereto marked “A”. Your attention is drawn to

paragraphs 3.8 to 3.13, 7.1 and 6.18 to 6.23. Annexures to the statement of Mr Y which implicate or may implicate you in the above allegations are not annexed hereto at this stage as they are classified. These will be provided as soon as possible after their declassification.

- 4 Please note that the names of certain individuals recorded in the affidavit of Mr Y have been redacted for reasons of security. A pseudonym marked in red text will replace those names.
- 5 Due to the fact that you are implicated or may be implicated by the evidence of Mr Y, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr Y will be uploaded on the Commission's website as soon as he concludes his evidence. The transcript will be uploaded daily.
- 6 If you wish to:
 - 6.1 give evidence yourself;
 - 6.2 call any witness to give evidence on your behalf; or
 - 6.3 cross-examine the witnessthen you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.
- 7 An application referred to in paragraph 6 above must be submitted to the Secretary of the Commission. The application must be submitted with an affidavit from you in which you respond to the witness's statement insofar as it implicates you. The affidavit must identify what parts of the witness's statement are disputed or denied and the grounds on which they are disputed or denied.
- 8 If you wish to apply to cross-examine the witness, your application must follow the requirements of Rule 11.3. In other words, it must be a substantive application on affidavit accompanied by a notice of motion.
- 9 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above

and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

10 Please take note that even if you do not make an application under Rule 3.4:

10.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and

10.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.

11 The witness statement and annexures provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.

12 Any response to or application in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Ms Rachel Niewenhuis at secretary@commissionsc.org.za.

DATED AT PARKTOWN ON THIS 8TH DAY OF JANUARY 2021



PROF ITUMELENG MOSALA
Secretary
Judicial Commission of Inquiry into Allegations
of State Capture, Corruption and Fraud
in the Public Sector including Organs of State

AFFIDAVIT

I, the undersigned;

TERRENCE aka Mr Y

do hereby declare under oath and state that:

1.

1.1. I am an adult male employed by the South African State Security Agency (“SSA” or “Agency”)

I confirm that the averments contained in this affidavit fall within my personal knowledge or knowledge gained by me in the course of the above-mentioned investigations, or knowledge gained by me from

1.2. documents under my control, except where the converse is expressly stated or where the converse appears from the context in which the statement is made. The averments are, to the best of my knowledge and belief, both true and correct.

CG VAN SCHANKE
CAPTAIN
0530690-6

respective limits for the approval of operational expenditure for cover structures and projects. Chapter 5 of the MPD is contained in **file 1** of the SSA Bundle and is marked as **"Annexure B"**.

- 3.7.2. The SSA's Operational Directives ("ODs") constitute a rigorous and comprehensive regulatory framework governing its operational activities, including deep cover operations.³ These ODs not only align with the constitutional imperative that national security be pursued in compliance with the law, but also recognise that the need for accountability is greater in the context of covert operations where there is a risk that secrecy, while a necessary component of intelligence, may be abused to conceal unlawful activities.

High-level observations

- 3.8. The evidence collected by the Project Veza investigation team reveals that the operations run by the CDSO fell outside the lawful mandate of the SSA, did not follow prescribed procedures, and totally ignored the applicable governance, financial and ODs of the SSA.
- 3.9. Unlawful intelligence operations and front companies were used to siphon funds from the SSA and create parallel intelligence capacities which, if not abated, would have continued to pose a risk to national security and the constitutionally established state. These unaccountable intelligence structures extended to parallel procurement services, vetting, counter-intelligence, VIP protection and domestic operations.
- 3.10. The implicated members (or former members) used their positions of authority to ensure that they or their family members or close associates

³ These ODs have been supplied to the Commission under summons.

 ZG VAN SCHRANKE
CAPTAIN
C530690-B



directly benefitted from unauthorised contracts with front companies and/or illegal operations.

3.11. In certain instances, these structures were used to further political ends by drawing political heads into the security space and by undue interference in the political process, both in respect of opposition parties and within the ruling African National Congress (“ANC”). This political interference is in contravention of the SSA’s mandate and the constitutional prescripts relating to civilian intelligence structures.

3.12. In assessing these parallel intelligence structures, the Project Veza investigation uncovered networks of individuals that appear to employ a similar modus operandi, which can be characterised as an illicit value chain with three distinct, yet interrelated, tiers of operation:

3.12.1. Initiators – persons who conceive and direct illicit operations;

3.12.2. Facilitators – persons who execute operations under the direction of superiors; and

3.12.3. Primary / secondary beneficiaries, which include, but are not limited to, the political and executive heads of the Agency as well as senior government officials.

3.13. At an executive level, the abuse of the SSA and its mandate occurred primarily under the political leadership of Ministers Siyabonga Cwele, David Mahlobo and Bongani Bongo, and was executed or implemented primarily – although not exclusively – by Mr Moruti (Stan) Noosi, Mr Dennis Dlomo, Ambassador Thulani Dlomo, Ambassador Sonto Kudjoe, and Mr Arthur Fraser.

 G. VAN SGRANKE
CAPTAIN
530690-6



over operational expenses for the project in September 2017, and final payments to remaining "co-workers" were only made in September 2018.

Project Mayibuye

- 6.18. Project Mayibuye was initiated by Mr Thulani Dlomo and was initially approved by Ambassador Kudjoe in January 2015 at the same time as other CDSO projects were approved. This submission for the establishment of Project Mayibuye is contained in file 2 of the SSA bundle and is marked as "Annexure M0". It was renewed and continued after the departure of Ambassador Kudjoe and the subsequent arrival of Mr Fraser as DG in September 2016.
- 6.19. According to the motivation put forward in seeking approval for Project Mayibuye, it was established "to provide counter-intelligence support that will enable to step up State authority and its organs of governance (Justice, Parliament, Provincial Legislatures) against hostile behaviour or radical intents aimed at undermining the rule of law and governance in general". Minister Mahlobo continuously approved the utilisation of retained earnings to fund these operations, despite advice that the retained earnings (unexpended funds) should be saved and utilised for infrastructure development to develop the intelligence capabilities of the SSA.
- 6.20. In a submission dated 31 May 2016, authorisation was given for the renewal of Project Mayibuye and payment of related expenditure between 1 April 2016 and 31 March 2017, approving the budget of R54.1 million. This submission for the renewal and further funding of Project Mayibuye is contained in file 2 of the SSA Bundle and is marked as "Annexure M25".
- 6.21. By way of example as to how operational funds would be withdrawn for Project Mayibuye, this approval is attached as support for a Temporary Advance ("TA") dated 30 June 2016 for R4.4 million, with the accompanying certificates bearing the signature of those who took receipt


DG VAN SCHANKE
CAPTAIN
C530690-6



of the cash for various operations under Project Mayibuye. This TA is included in file 2 of the SSA Bundle and is marked as "Annexure M15".

- 6.22. Based on the TAs which have been located during our investigation, the total paid in respect of Project Mayibuye amounts to R84.79 million. This includes eight invoices totalling R38.88 million which were submitted by Napa and one invoice for R6.9 million submitted by Squash.
- 6.23. Project Mayibuye comprised several operations, including Operation Commitment, Operation Justice / Simunye, Operation Lock and Operation Sesikhona, which are detailed separately below. Reference is also made in submissions for Project Mayibuye to Operation Safe Return and Operation Platinum, but little is known about these operations.

Operation Commitment

- 6.24. Operation Commitment involved monthly withdrawals of cash by, among others, Frank, Darryl and Sharon, which were delivered on more than one occasion to the Minister during the period when Mr Mahlobo was Minister of State Security. The allegation made to the investigation team was that these funds were intended for onward delivery by Minister Mahlobo to President Zuma. In his interview with our investigation team, Frank confirmed that he dropped off monthly withdrawals of R2.5 million to Minister Mahlobo's office under Operation Commitment and indicated he had heard that these payments were going to "the Project of the President" but could not confirm that this was indeed the case. It should be noted that the Project Veza investigation team has not found any proof that President Zuma in fact received these payments, nor is there any acknowledgment of such receipt by him.

- According to Lilly, these monthly payments amounted to about R24 million in the 2015/16 financial year and increased to
- 6.25. R54.1 million in the 2016/17 year. Frank reported that he

 CG VAN SCHANKE
CAPTAIN
C530090-6



Page 45 of 77

*intelligence agencies in the planned destabilization of the democratic rule in South Africa. It has also been confirmed through the said investigation the involvement of senior cabinet members and various senior leaders in the ruling African National Congress (ANC) who are colluding in a conspiracy to effect regime change in South Africa.” Under “challenges”, it is reported, *inter alia*, that “[o]ne area of interest (media houses) has proved to be one of the most difficult to penetrate for two reasons, either the remuneration demands were higher tha[n] what the operatives could offer or the targeted media house was equal on a security alert, hence immune to approach or [to] be recruited”.*

- 6.59. R24 million was allocated to Project Wave in the 2015/16 financial year, and the same amount again in the 2016/17 financial year. One of the largest payments under Project Wave was for the amount of R20 million in respect of an invoice raised by **Apricot**, purportedly for services rendered. These records are contained in **file 2** of the SSA Bundle and is marked “**Annexure W8**”. This includes two invoices for R10 million each raised by **Apricot** and proof of payment via EFT on 25 January 2017.
- 6.60. Based on the Temporary Advances (“TAs”) located during our investigations, a total of R48 million was paid under Project Wave, which includes this R20 million payment to **Apricot**. It should be noted that numerous payments and documents are missing from the financial records available.

OPERATIONS WITHIN THE OFFICE OF THE DG

7.

- 7.1. In August 2013, Ambassador Sonto Kudjoe was appointed as the new DG for the SSA and following the national election in May 2014,


 C. VAN SCHANKE
 CAPTAIN
 C530690-6



Mr David Mahlobo was appointed as the Minister of State Security. In the period that followed, the Office of the DG became involved in covert operations purported to be the "President's projects", allegedly pursuant to a directive from Minister Mahlobo. This is reflected in the notable increase in operational expenditure in the Office of the DG, which was mainly attributed to these covert projects.

- 7.2. During his tenure as Minister of State Security, Mr Mahlobo became directly involved in operational matters. He instructed and approved the utilisation of retained earnings to fund CDSO projects, including projects he was personally involved in. His involvement even extended to the handling of cash used in these operations, with deliveries of large cash amounts in the region of R4.5 million per month being made by various CDSO officials to the Minister's office and/or residence.
- 7.3. Helen, who was appointed as the Office Manager in the DG's office from January 2014, withdrew Temporary Advances ("TAs") for operational expenses related to these "President's projects". Helen retained her role as Office Manager after Mr Fraser re-joined the SSA as DG in September 2016.
- 7.4. Mr Fraser formally closed down the CDSO shortly after assuming office. However, SSA financial systems, documents, and witness accounts indicate that the Office of the DG continued to run many of the operations and projects which have been found to be irregular. By way of example, a Temporary Advance for R2 million was requested by Helen under Project Mayibuye and approved by Mr Fraser as late as September 2017. This TA is contained in file 2 and is marked as "Annexure M24". Helen's TA records reflect that approximately R242 million was taken or paid by her in the period from February 2014 to March 2018, allegedly for operations that were run from the Office of the DG. The electronic TA records reflecting the aforementioned withdrawals are contained in a schedule in file 2 of the SSA Bundle and is marked as "Annexure RH1".


CG VAN SCHANKE
CAPTAIN
0530690-6



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- 11.4. It is imperative that law enforcement agencies pursue the case opened by the SSA in April 2019 and that the recovery of cash and assets belonging to the state be prioritised. Stringent oversight of the intelligence community is required through the combined assurance of the Ministry, the Joint Standing Committee on Intelligence, the Office of the Inspector-General of Intelligence and the Auditor-General of South Africa. Finally, the integrity of the SSA's mandate must be protected from politicisation so that the pursuit of national security reflects the resolve of all South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want, and to seek a better life.

I know and understand the contents of this declaration.

I have no objection to take the prescribed oath.

I consider the oath to be binding on my conscience.

So help me God.

TERRENCE

I certify that the deponent acknowledged that he knows and understands the contents of this affidavit, that he has no objection to taking the prescribed oath and that he considers this oath to be binding on his conscience. I also certify that this affidavit was signed in my presence at Pretoria on this the 30 day of **NOVEMBER 2020** and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended by Government Notice R1648 of 19 August 1977, have been complied with.

CG VAN SCHANKE
CAPTAIN
C330690-8



COMMISSIONER OF OATHS

FULL NAMES: *Christoffel Cornelius van Schancke*
STREET ADDRESS: *Sedona General Offices Unit*
83 Hene Biko street, Brackenford, Kapaun
CAPACITY: *Captain*
AREA: *Metrower*

SOUTH AFRICAN POLICE SERVICE
SERIOUS ECONOMIC OFFENCES UNIT

2020 -11- 30

ERNSTIGE EKONOMIESE MISDRYWE EENHEID
SUID-AFRIKAANSE POLISIEDIENS



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

NOTICE IN TERMS OF RULE 3.3

TO : AMB SONTOKUDJOE
EMAIL : sontokudjoe@dod.mil.za

IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE (“THE COMMISSION”), YOU ARE HEREBY GIVEN NOTICE THAT:

- 1 A Notice in terms of Rule 3.3 was sent to you on 10 January 2021 in respect of the evidence of a witness who was referred to as “Mr Y”.
- 2 In the notice, reference was made to annexures which could not be attached as they were classified.
- 3 The annexures, referred to as **Annexures C"0", C8, C9, M"0", M4, M15, AK"0" and Annexure C from file 1**, have now been de-classified and are attached, with the appropriate redactions, marked “**B**”.
- 4 The witness statement and annexures provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses’ statements) submitted to the Commission by any person in connection with the Commission’s inquiry.

5 Any response to or application in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Ms Rachel Niewenhuis at secretary@commissionsc.org.za.

DATED AT PARKTOWN ON THIS 18TH DAY OF JANUARY 2021



PROF ITUMELENG MOSALA
Secretary
Judicial Commission of Inquiry into Allegations
of State Capture, Corruption and Fraud
in the Public Sector including Organs of State



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

NOTICE IN TERMS OF RULE 3.3

TO : AMB SONTOKUDJOE
EMAIL : sonto.kudjoe@dod.mil.za

**IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF
INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN
THE PUBLIC SECTOR INCLUDING ORGANS OF STATE (“THE COMMISSION”),
YOU ARE HEREBY GIVEN NOTICE THAT:**

- 1 The Commission’s Legal Team intends to present the evidence of a witness at its hearing held at the Old Council Chamber of the Municipality of the City of Johannesburg, 158 Civic Boulevard Braamfontein, Johannesburg. The presentation of the witness will be heard between **25 January and 29 January 2021**, or so soon thereafter as his evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website (www.sastatecapture.org.za) and in the media.
- 2 The allegations set out in the evidence of the witness implicates or may implicate you in the manner set out below:
 - 2.1 It is alleged that, during your tenure as Director General, you were involved in covert CDSO projects and operations used to access funds from the State Security Agency for personal enrichment and/ or in a manner that was not in accordance with financial prescripts. The project(s) were known as Project Mayibuye, Project Wave, Project Accurate /Khusela and Project Tin Roof

- 3 The relevant portions of the statement of the witness which implicate or may implicate you in the above allegations are annexed hereto marked “A”. Your attention is drawn to **paragraphs 31, 38 to 41, 54 to 55, 93 (under reference M12 and M15) and 97 (under reference W7)**. Any relevant annexures, which are classified, will be provided as soon as possible after its declassification.
- 4 Please note that the names of certain individuals recorded in the affidavit of the witness have been redacted for reasons of security. A pseudonym marked in red text will replace those names.
- 5 Due to the fact that you are implicated or may be implicated by the evidence of the witness, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full affidavit will be uploaded on the Commission’s website as soon as he concludes his evidence. The transcript will be uploaded daily.
- 6 If you wish to:
 - 6.1 give evidence yourself;
 - 6.2 call any witness to give evidence on your behalf; or
 - 6.3 cross-examine the witnessthen you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.
- 7 An application referred to in paragraph 6 above must be submitted to the Secretary of the Commission. The application must be submitted with an affidavit from you in which you respond to the witness’s statement insofar as it implicates you. The affidavit must identify what parts of the witness’s statement are disputed or denied and the grounds on which they are disputed or denied.
- 8 If you wish to apply to cross-examine the witness, your application must follow the requirements of Rule 11.3. In other words, it must be a substantive application on affidavit accompanied by a notice of motion.

- 9 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 10 Please take note that even if you do not make an application under Rule 3.4:
 - 10.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and
 - 10.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.
- 11 The witness statement and annexures provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.
- 12 Any response to or application in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Ms Rachel Niewenhuis at secretary@commissionsc.org.za.

DATED AT PARKTOWN ON THIS 10th DAY OF JANUARY 2021.



PROF ITUMELENG MOSALA
Secretary
Judicial Commission of Inquiry into Allegations
of State Capture, Corruption and Fraud
in the Public Sector including Organs of State

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

SWORN AFFIDAVIT

1. I, the undersigned

DARRYL
2. do hereby state under oath as follows:
3. I am an adult male and am currently employed at the State Security Agency (“SSA” or “Agency”), but I am on suspension pending a disciplinary enquiry.
4. The facts deposed to below are within my personal knowledge, unless otherwise stated or indicated by the context, and are, to the best of my belief, both true and correct.

A. Purpose of the affidavit
5. The purpose of this affidavit is to address a number of corruption-related issues at SSA. In this affidavit I will limit my knowledge to matters relevant to the investigation of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud (“the State Capture Commission”).

31. When I arrived at SSA, I first met with the management of CDSO and then at a later stage met some of the other staff. I had been advised by SSA members at the time of my appointment that covert CDSO projects were being used to access SSA funds for personal enrichment. I had accordingly been advised to get rid of all the staff in the CDSO and start with a fresh staff.

32. When I took over as GM of the CDSO, the following persons were in positions of authority:

32.1. Lilly was responsible for CDSO finance;

32.2. Sharon was responsible for the Presidential Security Support Directorate ("PSS");

32.3. Zane was the deputy to Sharon at PSS;

32.4. Felicity who was responsible for HR; and

32.5. Frank, who dealt with some of the covert projects. I had serious issues with these projects that he was responsible for, as will be explained later in this affidavit.

G. My role as GM of the CDSO

33. As GM, I was responsible for managing all activities of the CDSO and directing members in line with the mandate of the SSA. This proved difficult, however, as I was not properly informed about the operational activities that were ongoing in the CDSO and had not received a briefing from Mr Dlomo as to what my responsibilities entailed. Indeed, I only met with Mr Dlomo about four months after my appointment. When I enquired about Mr Dlomo's whereabouts, I was

H. The challenges of managing the CDSO

(a) My restricted access to information about CDSO operational activities

38. Despite numerous attempts to do so, I did not receive reports from project managers on the operational activities that were being undertaken by CDSO members. I was told that these projects involved covert operations and so I was not allowed to know the details of their aims, activities or outcomes. I was informed by these members that they reported to Mr Dlomo directly and not to me. As Mr Dlomo's right-hand man, Frank had insight into what was happening in the projects. I tried getting information from Frank, but he told me that Mr Dlomo said he should not disclose the details of the projects.
39. The files contained in the CDSO offices also did provide the level of detail I required to know whether the operational activities under these projects were aligned with the mandate of the SSA. I was also not able to assess whether the funds for these projects were being legitimately claimed without knowledge of the nature of these projects or the identity of the recipients.
40. Depending on the nature of the project, it may or may not be appropriate for a fixed monthly sum to be claimed. For example, a project may cost R4 million in January due to set-up costs, but thereafter the required money should decrease as the assets have already been purchased and the infrastructure for the project has been established. This is why it was important for me to be provided with sufficient detail about the project to properly evaluate the amount sought.

41. The CDSO members involved in these projects refused to tell me what these projects were about, yet I was pressured to authorise the use of SSA funds for these projects. I felt that I could not refuse to authorise the renewal of these projects or use of SSA funds, as I was not in a position to assess what the consequences of ceasing funding would be. As a result of my predicament, I decided to confine my efforts to ensuring that, at least formally, there was compliance with the prescripts of the Public Finance Management Act 1 of 1999 ("PFMA").

(c) Attempts to prevent financial irregularities

42. One of my concerns related to the fact that project managers, like Frank, were able to fetch withdraw money at the Finance Department from the CDSO budget. Because of this, I suggested to Dr Langa that a separate budget should be allocated for CDSO projects so that they could not deplete the entire budget for the CDSO.
43. During my seven months as the GM of CDSO, I attempted to address the financial irregularities relating to the projects. I tried to check whether funds were being withdrawn for the payment of "ghost sources" by checking whether such persons existed as well as what type of information they were allegedly providing to the Agency.
44. I was relieved when Mr Fraser took over the CDSO in 2017 given the challenges I experienced in trying to regularise payments and prevent the abuse of funds at the CDSO.

return flights be upgraded to business class. I explained that the flights were booked by the Travel Desk who follow certain protocols, and that I was not involved in making these arrangements.

J. Overview of CDSO projects and operations

54. When I arrived at the CDSO, the following projects and operations were already established and operational:

54.1. Project Mayibuye, which consisted of the following operations:

54.1.1. Operation Justice;

54.1.2. Operation Lock;

54.1.3. Operation Commitment;

54.1.4. Operation Sesikhona; and

54.1.5. Operation Safe Return;

54.2. Project Wave;

54.3. Project Construção;

54.4. Project Accurate / Khusela;

54.5. Project Tin Roof;

54.6. Operation Hollywood; and

54.7. Operation Lungisa.

55. The only operation that was established while I was at the SSA was called Project Academia, which I discuss further below. Notwithstanding the fact that I was the GM of the CDSO, this project established on the instructions of Minister Mahlobo and Mr Dlomo. This illustrates how my role was undermined by their direct involvement in the CDSO.

56. I have been asked by the Commission's investigators about the following entities, and confirm that I have not heard of them:

56.1. Napa – a company; and

56.2. Squash – a company.

57. I have been asked by the Commission investigators about the following projects or operations and I can confirm that I have not heard about these projects:

57.1. Amex;

57.2. Skyline;

57.3. Tornado;

57.4. Flute;

57.5. Beatle;

57.6. Whisper;

57.7. Dawn;

57.8. Isotoxal;

57.9. Speed;

them. I was informed by the State Capture Commission investigators that Operation Lock also fell under Project Mayibuye.

(d) Cash withdrawn under Project Mayibuye

93. A spreadsheet reflecting the detail of the transactions under Project Mayibuye is attached marked “CLR.3.” The references are to those ascribed to the documents in the bundle prepared by the investigators. My comments on these transactions are as follows:

Doc No	Description of transaction / involvement of Darryl	Comments by Darryl on transaction
M10	Submission dated 11 January 2016 motivating an advance for R200 000 was approved: Darryl: General Manager (SO10) on 11/01/2016. This is supported by Invoice 95 from Napa dated 20/01/2016 for “professional fees” in the amount of R200 000. Acknowledgement of receipt signed by Clint for R200 000.	I do not recall signing this submission dated 11 January 2016, not least because I had been attending the ANC January 8th statement in the North West over the weekend and 11 January 2016 would have been my first day back at the office. However, it appears to be my signature on the document but it is not clear that the page containing my signature is in fact related to the submission in question. For this reason, I have requested to see the original documentation for this transaction. This cash appears to have been taken by Lilly and paid to Clint. I have not heard of either Clint or the company Napa.
M11	Submission dated 11 January 2016, requesting authorization to pay the related expenses for Project Mayibuye. It is stated that the withdrawal will mainly be used for the operational needs of the members and their salaries. Operation Mayibuye: R2.5 million Operation Justice: R1.8 million Operation Lock: R200 000 Operation Sesikhona: R100 000 Operation Safe Return: R300 000	I do not recall signing this submission dated 11 January 2016, not least because I had been attending the ANC January 8th statement in the North West over the weekend and 11 January 2016 would have been my first day back at the office. However, it appears to be my signature on the document but it is not clear that the page containing my signature is in fact related to the submission in question. For this reason, I have requested to see the original documentation for this transaction. I could also not have recommended and approved the submission as both GM CDSO and on behalf of Mr Dlomo as DDG: Counter Intelligence.

SRW
shy

Doc No	Description of transaction / involvement of Darryl	Comments by Darryl on transaction
	Sub Total: R4.9 million Approved: Darryl (pp DB03) on 11/01/2016. Cash withdrawn by Lilly and settlement approved by Darryl. Invoice 77 from Napa dated 2016/01/26 for R4.9 million attached. Darryl was Acting DB03 over the period 04-17 January 2016. This is a duplicate of the document found in the bundle marked C8. Part B: Accounting officer Approval is by Darryl.	I also doubt the authenticity of the letter dated 03 January 2016 indicating that I was appointed as Acting DB03 for the period 04-17 January 2016. I say this because at this stage, I had not yet met Mr Dlomo since starting at the SSA on 02 January 2016. It is unlikely I would have been appointed to act as DB03 as I had only just started as GM of the CDSO. With regards to the settlement, it appears that I signed this document. However, I cannot be certain that I signed this and do not recall signing any settlement with invoices from Napa attached.
M12	Submission dated 22 March 2016, states "The purpose of the submission is to request authorization from the Director General SSA (DGO1) to pay the related expenses for Project Mayibuye, Project Wave and Project Construção for the month of March 2016. The withdrawal will mainly be used for the operational needs of the members and their salaries." Operation Mayibuye: R2.5 million Operation Justice: R1.8 million Operation Lock: R200 000 Operation Sesikhona: R100 000 Operation Safe Return: R300 000 Sub Total: R4.9 million Project Wave R2 million Project Construção: R2 million Total R8.9 million Compiler: Messi: Financial Officer (unsigned) Recommended:	I was the General Manager (SO10) at the time and I signed recommending the advance and approving the submission because this was a project already established by the time of my arrival at the SSA. As I stated above, felt compelled to recommend the continued financing of existing projects as I was not in a position to assess the consequences of terminating funds. My understanding of the following two operations not discussed in detail above are as follows: Operation Sesikhona: I recall the name but I do not recall what this project was about. Operation Safe Return: I recall the name but I do not recall what this project was about. Although it appears to be my signature on the TA forms, I did not take the advance on 22 April 2016 for R8.9 million. Due to the poor quality of the TA documents, I am unable to confirm with any degree of certainty. With regards to the settlement, it appears that I signed this document. However, I cannot be certain that I signed this and do not recall signing any settlement with invoices from Napa attached in the amount of R4.9 million.

Doc No	Description of transaction / involvement of Darryl	Comments by Darryl on transaction
	Dwayne: Manager Financial Management Lilly: Component Head Finance & Assets Darryl: General Manager Mathew: CFO Danny: Acting Deputy Director Counterintelligence BWJ Langa: Director Domestic Branch Approved: S Kudjoe: DG on 16/04/2016	
M14	TA accounting part B attached but dated September 2016. There is no submission for the R2.5 million advance. It is recorded that the cash taken by Frank and the settlement approved by Darryl. Invoice 45V from Napa dated 2016/06/16 for "professional fees" in the amount of R2.5 million. Cash receipt for R2.5 million cash handed over by Frank to "Israel" on 30 June 2016 for Project Commitment. There is a further cash receipt on the same date recording that Israel handed the R2.5 million to an unknown person.	This looks like my signature on the settlement, but the settlement is not complete. It appears that the cash was taken by Frank and handed to Israel.
M15	There is no specific submission for this TA. The submission dated 31 May 2016 with the budget approval was attached. The submission states "The intended cover operations are to run as of the 01st April 2016 to the 31st March 2017. Total budget R54 120 000.00." Submission compiled by Darryl (signed/unsigned) and approved by Kudjoe: Acting Director Domestic Branch.	This cash appears to have been taken by Frank and that I may have settled the TA. This appears to be my signature on the colour page but other pages are in black and white and illegible. I do not know who the people are that signed for the cash. Frank should know who he handed the cash to. I do not recall ever seeing these cash receipts before they were shown to me by the State Capture Commission investigators.

sew/ shg

Doc No	Description of transaction / involvement of Darryl	Comments by Darryl on transaction
	Cash of R4.4 million taken by Frank and settlement approved by Darryl (Acting on behalf of ST Dlomo); 20 June 2016. Attached was: Invoice 47V from Napa dated 2016/07/06 for "professional fees" in the amount of R4.4 million. Cash receipt: 30 June 2016: Operation Mayibuye; Commitment: R2.5 million handed over by Frank to Jabu. Cash receipt: 30 June 2016: Operation Justice: R1.4 million handed over by Frank to Jabu. Cash receipt: 30 June 2016: Operation Lock: R300 000 handed over by Frank to unknown person Cash receipt: 30 June 2016: Operation Lock: R200 000 handed over by Frank to "Correctional Services officer".	
M16	Submission dated 05 Sept 2016, states "The purpose of the submission is to request authorization from the Acting Director Domestic Branch (DBO1) to pay the related expenses for Project Mayibuye for the months of April until August 2016." Submission recommended by Darryl on 05 Sept 2016 and TA signed by Darryl as receiving R 13.150 million. The TA was settled by Susan. Attached: Invoice 69V from Napa dated 2016/10/06 for "professional fees" in the amount of R5.3 million. Invoice 71V from Napa dated 2016/10/10 for "professional fees" in the amount of R5 million.	The signatures on the submission as well as the TA appear to be mine. However, I never took this R13.15 million and never collected cash from the Finance Office. Further, the documents shown to me do not appear to be authentic. I have never seen these invoices from Napa before shown them by the investigators. I was not the contact person for this entity. Susan was my junior and should not have signed to settle any claim in my name.

SPW/ [Signature]

Doc No	Description of transaction / involvement of Darryl	Comments by Darryl on transaction
	Invoice 73V from Napa dated 2016/10/12 for "professional fees" in the amount of R2.85 million. No cash receipts attached.	
M17	Submission dated 03 Oct 2016, states "The purpose of the submission is to request authorization from the Acting Director Domestic Branch (DBO1) to pay the related expenses for Project Mayibuye for the month of September 2016. In order to conduct the relevant operational activities, an amount of R4.51 million is required for this project as per the breakdown." Submission recommend by Darryl and approved by Director Langa. TA signed by Darryl as receiving R4.15 million. The TA was settled by Sharon. Attached: Cash receipt: 16 Sept 2016: Operation; Commitment (September): R2.5 million handed over by Darryl to unnamed individual. Invoice from Napa dated 2016/10/21 for "professional fees" in the amount of R4.51 million.	It appears to be my signature under SO10 where Mr Dlomo and I recommended the submission. However, it was not approved by Dr Langa. Therefore no money should have been drawn against this submission. Further, the documents shown to me do not appear to be authentic. I never took this R4.51 million and never collected cash from the Finance Office. Further, the receipt reflects "Commitment" in the amount of R2.5 million rather than the R4.51 million requested in the submission for Project Mayibuye. The person receiving cash is identified as me, but the name of the receiver is not identified. I have also never seen these invoices from Napa before they were shown to me by the investigators. I was not the contact person for this entity. Sharon was my junior and should not have signed to settle any claim in my name.
M18	Submission dated 26 Oct 2016, states "The purpose of the submission is to request authorization from the Acting Director Domestic Branch (DBO1) to pay the related expenses for Project Mayibuye for the month of October 2016." Memorandum recommended by Darryl and approved by A Fraser: Director General on 15/11/2016. TA signed by Darryl as receiving R4.51 million, approved by A Fraser. The TA was settled by Sharon.	The signatures on the submission as well as the TA and the cash receipts appear to be mine as the claimant. However, the documents shown to me do not appear to be authentic. I never took this R4.51 million and never collected cash from the Finance Office. Furthermore, page 3 of 4 reflects that the money was taken in euros for foreign countries as well as rand in South Africa. I have never undertaken trips for the SSA to these foreign countries. Sharon was my junior and should not have signed to settle this claim.

SPW / JH

Doc No	Description of transaction / involvement of Darryl	Comments by Darryl on transaction
	Invoice from Napa dated 2016/11/21 for "professional fees" in the amount of R4.51 million. No cash receipts.	
M19	Memorandum dated 28 Nov 2016, states "The purpose of the submission is to request authorization from the Acting Director Domestic Branch (DBO1) to pay the related expenses for Project Mayibuye for the month of November 2016." Financial Implications: R4,51 million TA signed by Sharon as receiving R4.15 million, approved by A Fraser. The TA was settled by Darryl. Invoice 82V from Napa dated 2016/12/09 for "professional fees" in the amount of R4.51 million.	The signatures on the Memorandum as well as the TA settlement appear to be mine as the claimant. However, I never took this R4.51 million and never collected cash from the Finance Office. The original documents are required.
M20	Memorandum dated 06 March 2017, states "The purpose of this submission is to request approval from the Director-General SSA to pay the related expenses for Project Mayibuye for the month of March 2017." Page 2 has the wording Financial Implications R4 510 000,00, but there is a line drawn through this with the handwritten figure "2,4" Recommended by Darryl. Cash taken by Helen.	The signature on the Memorandum appears to be mine. When Mr Fraser came in towards the end of This page could be from another submission so I will request to see the originals

P. Project Construção:

94. I know nothing about this project as it was already in existence when I was appointed. I did request a report from the project manager, Frank but he never complied with my instruction.

504/ dy

Doc No	Description of transaction / involvement of Darryl	Comments by Darryl on transaction
	Lilly: Component Head Finance & Assets (SO31) Mandla: Financial officer Sharon: Acting General Manager Special Operations Darryl: Acting Deputy Director Approved: S T Dlomo Appears to have been reduced from R3 677 200.00 to R2 452 000. Comment?	
TR4	Submission dated 06 March 2017, states: "<i>The purpose of the submission is to request authorization from the Director General (DGO1) to pay the related expenses for Project Tin Roof for the month of November 2016</i>". R600 00 required for: Rental of Project Tin Roof R245 000.00 Contact Operational R353 000.00 Communication R2000.00	I confirm that the signature on the submission appears to be mine. However, I doubt the authenticity of the Memorandum as it was recommended by Lilly on 06 March 2017 and only recommended by me on 06 April 2017. The cash appears to have been taken by the Project Manager, Mandy.

I know and understand the contents of this declaration.

I have no objection to take the prescribed Oath.

I consider the oath to be binding on my conscience.

DARRYL



I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit. This affidavit was sworn to before me and the deponent's signature was placed thereon in my presence in Durban on 23 November 2020 at 12:01.


**COMMISSIONER OF OATHS
SEAN PATRICK WEBSTER
INTEGRATED MANAGEMENT SOLUTIONS
10 LINNET ROAD, WOODHAVEN, DURBAN
INVESTIGATOR: & S.A.
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**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

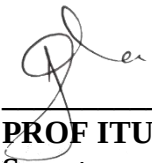
NOTICE IN TERMS OF RULE 3.3

TO : AMB SONTOKUDJOE
EMAIL : sonto.kudjoe@dod.mil.za

IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE (“THE COMMISSION”), YOU ARE HEREBY GIVEN NOTICE THAT:

- 1 A Notice in terms of Rule 3.3 was sent to you on 10 January 2021 in respect of the evidence of a witness who was referred to as “Darryl”.
- 2 In the notice, reference was made to annexures which could not be attached as they were classified.
- 3 The annexures, referred to as **Annexure M12, M15, W7 and TR2**, have now been de-classified and are attached, with the appropriate redactions, marked “**B**”.
- 4 The witness statement and annexures provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses’ statements) submitted to the Commission by any person in connection with the Commission’s inquiry.
- 5 Any response to or application in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Ms Rachel Niewenhuis at secretary@commissionsc.org.za.

DATED AT PARKTOWN ON THIS 18TH DAY OF JANUARY 2021



PROF ITUMELENG MOSALA
Secretary
Judicial Commission of Inquiry into Allegations
of State Capture, Corruption and Fraud
in the Public Sector including Organs of State



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

NOTICE IN TERMS OF RULE 3.3

TO : AMBASSADOR SONTOKUDJOE
C/O : CHITHA INC ATTORNEYS
TEL : 012 304 0147
EMAIL : thobile@chithatattorney.co.za

IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE (“THE COMMISSION”), YOU ARE HEREBY GIVEN NOTICE THAT:

- 1 The Commission’s Legal Team intends to continue the evidence of **MR DAVID MAHLOBO**, the former Minister of State Security, at its hearing to be held at the Old Council Chamber of the Municipality of the City of Johannesburg, 158 Civic Boulevard Braamfontein, Johannesburg. The continuation of the witness’s evidence will be heard on a date to be advised.
- 2 During the course of continued evidence of Mr Mahlobo, the Commission intends referring to affidavits provided to the Project Veza Investigators as well as certain transcripts of interviews conducted by these investigators. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.

- 3 Please note that the names of certain individuals recorded in the statement of the witness have been redacted for reasons of security. A pseudonym marked in red text will replace those names.
- 4 The allegations set out in the affidavits and/or transcripts of a witness with a pseudonym 'Frank' that implicate or may implicate you are as follows:
 - 4.1 It is alleged that you may have been involved in illegal and/or illicit activities involving the use of funds and/or resources relating to the Chief Directorate: Special Operations of the State Security Agency ("SSA").
 - 4.2 It is alleged that while you were Director General of the SSA, there was a Memorandum of Understanding between the Correctional Services and the SSA. This involved the payment, provision of safe houses and protection of Mr Eugene De Kock.
- 5 The affidavits and/or transcripts which implicate or may implicate you are annexed hereto marked "A". Your attention is drawn to **Annexure 4.5**.
- 6 Due to the fact that you are implicated or may be implicated by the evidence of the witness, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement will be uploaded on the Commission's website as soon as he concludes his evidence. The transcript will be uploaded daily.
- 7 If you wish to:
 - 7.1 give evidence yourself;
 - 7.2 call any witness to give evidence on your behalf; or
 - 7.3 cross-examine the witnessthen you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.
- 8 An application referred to in paragraph 7 above must be submitted to the Secretary of the Commission. The application must be submitted with an affidavit from you in which

you respond to the witness's statement insofar as it implicates you. The affidavit must identify what parts of the witness's statement are disputed or denied and the grounds on which they are disputed or denied.

- 9 If you wish to apply to cross-examine the witness, your application must follow the requirements of Rule 11.3. In other words, it must be a substantive application on affidavit accompanied by a notice of motion.
- 10 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 11 Please take note that even if you do not make an application under Rule 3.4:
 - 11.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and
 - 11.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.
- 12 Please note that the documents are provided to you solely for evidence purposes on the strict understanding that the documents have been de-classified for these purposes only and remain classified for all other purposes. As such, the documents provided may not be disseminated, published or provided to any other person or utilised for any other purpose other than the provision of evidence at the Commission."
- 13 Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses'

statements) submitted to the Commission by any person in connection with the Commission's inquiry.

- 14 Any response to or application in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Ms Rachel Niewenhuis at secretary@commissionsc.org.za.

DATED AT PARKTOWN ON THIS 29th DAY OF APRIL 2021



PROF ITUMELENG MOSALA
Secretary
Judicial Commission of Inquiry into Allegations
of State Capture, Corruption and Fraud
in the Public Sector including Organs of State

4.5

SSA-02-1247

DECLASSIFIED

Frank

Date: 6 November 2019

Transcribed by: Maf

Duration: 04:59:42

Rex: Good morning colleagues today is the 6th of November 2019, we are meeting at room H21 at the main gate reception Musanda. It is 09:05 am according to my watch, present in the room, my name is **Rex** from Employment Relations, we have Ms **Demi**, did I pronounce it correctly?

Demi: Yes

Rex: And Ms **Kim** and Mr **Frank**, for the record **Demi**, **Kim** and myself have been appointed by the Director General amongst other team members to conduct an investigation into certain irregularities. Which the details will become more apparent during the interview, Mr **Frank** the purpose for today's meeting and I'm making reference to regulation 5(4) of the Chapter 18 of the Intelligence Service's regulations, this particular regulation deals with the procedures governing discipline or the disciplinary procedure and I'll read it quickly into the record uhm 5(4b) it says the investigator or investigating team must approach the members suspected of misconduct and obtain a warning statement from him or her. So we've reached a point in the investigation where the team has gathered certain information which we can discuss with you with the view to getting your response to that information and in certain instances where you can supplement the information which will ultimately help us to put a report together for the Acting Director General's attention. Ultimately, he needs to decide on the way forward, he will look at the reports and decide was there a form of misconduct and what action needs to be taken or does no action need to be taken. That's the purpose of this morning's meeting, I did mention on the phone that you are entitled according to regulation 4 to be represented by a fellow member of the SSA throughout the disciplinary process. So do you have any questions at this point?

Frank: Very good morning once again, I think I'm just going to make a comment on the questions as per se, I think I'm comfortable with the process. The fact that I don't have a representative here what is uhm...I didn't see the necessity because one I still have to come and understand what is the you know the issue at hand. look throughout the process and even my suspension I've always represented myself and tried to explain myself so I'm comfortable I really don't have a problem with it and you can pursue unless otherwise at a particular point I might want to have a representative but at the moment I do not see the necessity

Rex: Thank you so much for that and at this point I'm going to hand over to Ms **Demi**, she can take us through or guide us through the questions

Demi: Good morning Mr **Frank**

Frank: Morning Ms **Demi**: Pleased to finally meet you

Frank: Thank you

Demi: And thanks for availing yourself

Frank: Thank you

SSA-02-782

DECLASSIFIED

Frank: Oh no, no no, no

Demi: Delivering money at the office?

Frank: No, there was no SBV there

Kim: With the R20 million, was this when Arthur came in or after?

Frank: During the time, remember they worked with Arthur. Thulani worked with Arthur for some time until they had their own problems, so it was during that time but even that time I was already disposed. I was not really working because I was not doing anything to be honest you know when this thing started when Arthur came and they started having problems

Demi: So, what was Kale Investment doing for us?

Frank: Kale Investment is the first company ma'am before these projects, there was a project called...what was this project called? Maqeda'indaba but before it was Maqeda'indaba it was something else that they established that they were working on, I don't know. All I know is that I did work with these guys that own Kale in some project, not project but in some operation with the Minister where I had to actually draw the money, take the money there to the Minister and work with these guys. Even when we left and we were no longer working with Special Ops, one of the guys continuously I could see him around with the Minister. So I don't really have the scope of the Kale thing

Demi: Shadow's security company

Frank: I don't know anything about it, I don't know anything. The one thing I know ma'am is that even after we left these projects were still being run under the auspices of Fraser and Darryl necessarily for other things and not necessarily for what we were using them for. That's the only thing I can tell ma'am, I don't know anything

Demi: Ok, want to...

Frank: Yes, ma'am

Demi: Was it normal for people in SO to just take R4 million, R10 million for cash without knowing where that money was coming from and why was Lilly approving some of the TAs or your settlements as line manager. Was she ever your line manager?

Frank: Ok, can I tell you in terms of settlements what happened ma'am. Some of these people these co-workers, there's money taken and it's distributed amongst them for whatever work they were going to do. When they come back they settle with Lilly, that's the only ones I know, I know they were going to Lilly. Account for whatever they did and settle with Lilly

Demi: So, all this time you were giving money, you were drawing money for Wave, who were you giving money to? Because here, there is one that is given to Squash, R4 million that you took for Squash

Frank: Yes

Demi: The same Squash you said you didn't know what the project was about

Frank: Yes, yes, yes

SSA 02 201

DECLASSIFIED

guy is living in a R3 million house. Now him and his lawyers were sitting on a case and wanted to demand these things so I thought about this. That lady Thando, I think that's when she started not to like me because I was very much against these things that were happening. So, when that happened ma'am that's how the ministry took over the project. It went out of my hand, I know nothing about it, De Kock was paid from the Minister's office. I would draw the money under Ops Lock, deliver the money to them at ministry. They would sign for it, either Vukhani or Jay, he would sign for the money. They would go and deliver and bring back the certificate, they would take the money and I would take the certificate, I would settle like that. There was another project for example, Ops Justice, there was money being drawn, that money started as R1.3 million up until R21.8 million. I used to draw that money...

Demi: Why?

Frank: Deliver...because it was an instruction, it's there also on the...

Demi: Where did it go?

Frank: It would go to the Minister

Demi: For what purpose?

Frank: They knew who they are dealing with, remember there was a point where Justice was complaining that no there was a complaint that the judges were colluding to over throw the government so an operation was established. So they said, there is someone who is working closely to understand that, so this person was being paid this money to deliver this...

Demi: So the person is not a judge?

Frank: No, it was meant to deal with the issues of the judge. Actually let me not confirm whether this person is a judge or not, I don't know. All I know is that I'm delivering this money to the office to deal with the issue of the judges, that's one thing I know. Then, there was another money (sic), R2.5 million I think that we used to take. They used to call this money...they used to call this money commitment

Demi: Yes, what was it for?

Frank: This money was going to some operation; I don't know what operation it was but I would take this money. Actually there was no money, we would not receive the money. We would get a call from the Minister forcing that this money must be available. I said, but Minister this money only comes out only when we draw the entire money for the month. So if we can't even draw money to pay people, where will we get this R2.5 million, do you understand. So, I would draw this money and take it, so at the ministry I would drop off R2.5 million, this R1.3 million and this R200 000. I would drop these monies in (sic) the Ministry, take what is due for me to make the payments for the workers. That's it

Kim: Mr Frank, I don't know if you recall but I sat as the secretariat at the High Level Review Panel

Frank: I remember that

Kim: You had mentioned something in the panel with regard to Commitment

Frank: Yes, Commitment

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Kim: In terms of where you thought the money was going

Frank: They were actually saying the money was going towards Project of the President, that's what they used to say but I don't know where, which, who was receiving. You see, the one person who was also delivering this money was that boy who passed on

Demi: Luanda

Frank: Luanda, so it was Luanda and Shadow that would deliver this Commitment money. To who, where, I don't know but the money was delivered either to the ministry from there to pick it up and go and deliver

Demi: Were part of the delegation that went to go and present to the Minister in order to access retained earnings, retained funds for projects?

Frank: Ok, I was part of it but remember...

Demi: Did you make the presentations?

Frank: Yes, we did

Demi: Did you personally make the presentation?

Frank: No, no, no

Demi: Who would make it?

Frank: Me and Lilly but can I explain as far as that (sic). The meeting was never called because we wanted money, there was a crisis of money firstly but the meeting was called by the Minister and the CFO alerted the Minister that you know the running of the budget within Special Operations is not correct. So the meeting was as an intervention kind of by the Minister, so that's why the Minister came in and redrafted the whole budget, how should it go and all these things. This is how it gave birth to project Khusela, Khusela was now a project named in relation to presidential. That's how it came to Khusela

Demi: What was Khusela about when you...

Frank: When you can just draw without a project, the Minister then said he wants money allocated for these...

Demi: For Khusela

Frank: For this PSS and this name will be under Khusela meaning security

Demi: Oh

Frank: That's how it came about but I had nothing to do with that anyway. That meeting was called for that purpose ma'am but what transpired in that meeting ma'am, I remember Dwayne was there. I don't know whether you know Dwayne

Demi: Yes

Frank: Dwayne is the manager there

Demi: Yes

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Frank: Dwayne started creating an impression we withdrawing worth R2 million what, what, what, what. He told the Minister we owing R43 million, the Minister and Deputy Minister Molekane were in that meeting. They even chased us away and said go and solve this problem, come back the following day and we want a report on these things. Even before I could explain to the Minister it's not true what this man is saying, there are no TAs that are being drawn worth R2 million. It's not true, these R2 millions that you see are not drawn on the basis of these projects and operations, this is what I wanted the Minister to understand because people mix things sometimes you know. Then we came back to check with Dwayne, ok Dwayne you said we owe R43 million in TAs, let's go through these TAs and see which ones because it means members are not paying monies ne. We went through and Dwayne had nothing to show, guess what, all TAs were submitted to finance but finance had them under the desk and in the system it was as though people didn't submit their...

Demi: Which finance?

Frank: Here before they brought Ozzi

Demi: Clearance?

Frank: That's how they brought Ozzi

Demi: Oh and they brought Ozzi

Frank: That's how Ozzi came into the picture

Demi: Why did they choose Ozzi?

Frank: I don't know, they brought Ozzi and said Ozzi has to deal with SO

Demi: Don't you think that the other finance people the reason they left those TAs is because they are not compliant to policies?

Frank: But why didn't they say so? (Demi laughs)

Demi: You guys at SO were instructed by the Minister and you guys were superior

Frank: You see where I have a problem, you want me to understand that people could not do anything about this thing because it was SO but you don't understand when I tell you that it was the same situation with us having to work with somebody that says I want this thing done (taps on the table). Thulani for instance let me give an example, Thulani at one point promised that he was going to promote us. There would be a name here, let's say Frank I'm going to be a general manager, whatever, it would be a name then that structure. A paper like this, this is the kind of submission Thulani would have, so I'm trying to give a picture of a person...

Demi: We get the picture but the thing is accountability is at different levels and we understand his role, we know it completely but we also have to look at all the levels. Who had a role to play in facilitating all of this

Frank: Which I don't deny ma'am and I don't really jump and I've raised these things many times. I feel sorry you know that I find myself in this situation, I say it all the time, I even told DG. DG look at this situation as it is today, that panel review of Dr Mufamadi never spoke about me. That panel spoke about every wrong that the Minister did, where is the Minister today, he's a Deputy Minister. He's sitting there comfortably, I'm sitting at home

Demi: It doesn't matter, he will get his day



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

NOTICE IN TERMS OF RULE 3.3

TO : AMBASSADOR SONTOKUDJOE
EMAIL : sontokudjoe@dod.mil.za

IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE (“THE COMMISSION”), YOU ARE HEREBY GIVEN NOTICE THAT:

- 1 The Commission’s Legal Team intends to present the evidence of a witness at its hearing to be held at the Old Council Chamber of the Municipality of the City of Johannesburg, 158 Civic Boulevard Braamfontein, Johannesburg. The witness’s evidence will be presented between **25 January 2021 and 29 January 2021**, or so soon thereafter as the evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website (www.sastatecapture.org.za) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 The allegations set out in the evidence of the witness implicates or may implicate you in, *inter alia*, allegedly participating in various acts of corruption, bribery, fraud, money laundering and/or tax evasion.
- 3 The relevant portions of the statement of the witness which implicates or may implicate you in the above allegations are annexed hereto marked “A”. Your attention is drawn to **paragraphs 26 to 32 and 35 to 47. Annexures SB1 and SB2** to the statement of the

witness which implicate or may implicate you in the above allegations are annexed hereto marked “**B**”. The full judgments are available online at SAFLII.org.

- 4 Please note that the names of certain individuals recorded in the statement of the witness have been redacted for reasons of security. A pseudonym marked in red text will replace those names, including the name of the witness.
- 5 Due to the fact that you are implicated or may be implicated by the evidence of the witness, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of the witness will be uploaded on the Commission’s website as soon as he concludes his evidence. The transcript will be uploaded daily.
- 6 If you wish to:
 - 6.1 give evidence yourself;
 - 6.2 call any witness to give evidence on your behalf; or
 - 6.3 cross-examine the witnessthen you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.
- 7 An application referred to in paragraph 6 above must be submitted to the Secretary of the Commission. The application must be submitted with an affidavit from you in which you respond to the witness’s statement insofar as it implicates you. The affidavit must identify what parts of the witness’s statement are disputed or denied and the grounds on which they are disputed or denied.
- 8 If you wish to apply to cross-examine the witness, your application must follow the requirements of Rule 11.3. In other words, it must be a substantive application on affidavit accompanied by a notice of motion.
- 9 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

- 10 Please take note that even if you do not make an application under Rule 3.4:
- 10.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and
- 10.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.
- 11 The witness statement and annexures provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.
- 12 Any response to or application in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Ms Rachel Niewenhuis at secretary@commissionsc.org.za.

DATED AT PARKTOWN ON THIS 8TH DAY OF JANUARY 2021



PROF ITUMELENG MOSALA
Secretary
Judicial Commission of Inquiry into Allegations
of State Capture, Corruption and Fraud
in the Public Sector including Organs of State

AFFIDAVIT

I, the undersigned,

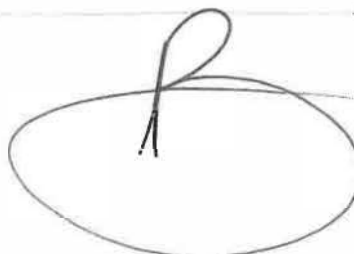
STEVEN

do hereby state under oath:

1. I am currently employed in the Domestic Branch of the State Security Agency ("SSA") as a Chief Director, Special Events.
2. I manage the security at "*Special Events*," such as inaugurations, visits by international dignitaries, the opening of Parliament and other such special events where SSA is expected to ensure security at the event.

Background

3. I joined the ANC at a young age and went into exile. I received training in a **foreign country** after which I was infiltrated back into the country to gather intelligence for the ANC uMkhonto we Sizwe ("MK").
4. I became an underground MK Commander of an intelligence unit and whilst doing this work I commenced studies at Wits University.
5. I completed my BA degree and continued to serve in the ANC Intelligence structure.
6. In 1995 I was absorbed into the new Intelligence structure of South Africa – the National Intelligence Agency ("NIA"), which was an amalgamation of the extant official and unofficial Intelligence structures in 1994. At the time the SSA was divided into NIA, as the Domestic Branch, and the South African Secret Services ("SASS") as the Foreign Branch. In September 2009, the two distinct branches of the Intelligence Services were amalgamated by Presidential Proclamation 59



right to know what was happening in Parliament, thereby preventing the participation in a society in which the freedom of the press was upheld. Another contested issue was that television viewers of the Parliamentary broadcast were deprived of the right to see visuals of the EFF MPs being ejected from the chamber, as the camera remained focused on the speaker of Parliament and the chairperson of the National Council of Provinces.

22. SANEF consequently launched a legal challenge to the signal jamming within Parliament and sought to have such acts declared unconstitutional and illegal.
23. Soon after 12 February 2015, and arising out of the public outcry and the legal challenge by SANEF over the incident, the then Minister of the SSA, Mr David Mahlobo ("**Minister Mahlobo**") instructed me to meet with him at his official residence (address supplied). My driver, (name supplied), drove me to his residence and remained in the car while I went inside the house.
24. On entry into the house, I went through to the lounge, where I found Minister Mahlobo. No one else was present at that time.
25. Minister Mahlobo explained that I was there to discuss the response to the legal challenge by SANEF to the jamming of the signal at SONA. He went on to tell me that two Judges would be joining us who worked for him as operatives and would assist in influencing the case against the SSA brought by SANEF. Furthermore, I was told that although they were attached to the Gauteng Bench, they would be able to influence the court in Cape Town where the matter was to be heard.
26. I enjoyed a cordial relationship with Minister Mahlobo and knew that he ran Intelligence operations and paid operatives. I knew this because this was an open secret at SSA, and was often a topic of discussion amongst SSA managers. Furthermore, as will be seen below, this is an issue that I had discussed personally with Minister Mahlobo. I knew from discussions at SSA amongst managers, that he had demanded and received a budget from SSA to allow him to pay his operatives. It was of course completely irregular for a Minister to run SSA Operations and I had previously spoken to him about this. Minister Mahlobo paid scant regard to what I said about this, however, and he simply replied that



he knew far more about running operations than me. I knew that the DG during this period, Ambassador Kudjoe, had come under pressure from Minister Mahlobo for a budget and she had eventually agreed to provide this. I knew, too, from talks at SSA that the Chief Financial Officer, Mathew, had succumbed to this political pressure and routinely paid out large amounts of cash, with no regard to SSA financial prescripts. Minister Mahlobo spoke openly to me about the Operations he ran. It was not out of the ordinary for him to receive large amounts of cash from SSA for the Special Operations projects he ran. This was well known at SSA.

27. Shortly after my arrival two other men arrived and joined us in the lounge. I believed these men to be the two Judges that the Minister had told me about. The one man was a black man and the other, a white man.
28. The black judge, who was introduced as Mr Ngwenya, wore khaki shorts, while the white judge was dressed smart casual, with long khaki pants. The white man was balding and although he was introduced, I cannot recall his name. Both appeared respectable, middle-aged men. I did not note any other particular features of the men. Ngwenya is a Zulu surname. However, Mr Ngwenya spoke in an accent that sounded as if he came from one of the provinces in the north of South Africa rather than a Zulu. Being Zulu myself, I was not convinced, judging from his accent, that Mr Ngwenya was actually Zulu or that Ngwenya was his correct surname.
29. A conversation then occurred between the two Judges and Minister Mahlobo. I was present during this conversation and participated in explaining the circumstances of the jammer having been placed in parliament. Minister Mahlobo expressly instructed the judges to take steps to influence the Judges who were to hear the "jamming" case to render a favourable finding for the Minister. The white Judge seemed uncomfortable about the directness of the conversation and appeared hesitant to participate in the conversation, while the black judge seemed at ease with the situation and engaged Minister Mahlobo in the discussion.



30. I was told at the meeting that an advocate who was a Senior Counsel had already been appointed to represent SSA, but that there was concern about the ability of this advocate. It was decided that an additional Senior Counsel should be appointed by the State Attorney. Ultimately, the Minister, as the fourth respondent, had separate counsel: Adv. F van Zyl SC and D J Jacobs SC who were briefed by the State Attorney. The first to third respondents were the Speaker of the National Assembly, the Chairperson of the National Council of Provinces and the Secretary to Parliament, and they were all represented by Adv. Jeremy Gauntlett SC.
31. I was instructed to travel to Cape Town and remain in attendance to brief Counsel on every aspect of the jamming device and to give sound reasons as to why it was deployed.
32. Having received my instructions, I departed from the meeting.

Identification

33. Some three years later, when discussing this incident with Mr Loyiso Jafta, the present acting DG of the SSA, he encouraged me to look at photographs of Judges that appeared on the internet to see if I was able to identify the two Judges I had met at Minister Mahlobo's home in 2015. I must point out that in 2015 I did not take particular note of the two Judges that I met. I was in their company for a short period only, about 15 minutes, and did not make a point of memorising their facial and other features.
34. Despite this, I carried out an internet search for images of South African Judges but was unable to find a photograph that closely resembled either the white or black Judge that I met. Having done this exercise I now know that I am not in a position to reliably identify either of the Judges.

SONA Litigation

35. I reported the meeting to the then DG of SSA, Ambassador Kudjoe, reporting too on the operative Judges who had been engaged by the Minister to influence the judicial outcome of the SONA matter. Ambassador Kudjoe's reaction to my report



was one of resignation – that she was unable to influence the Minister in one way or the other.

36. I thereafter made arrangements to travel to Cape Town. I worked with the Advocates representing the Minister and explained in detail the function and purpose of the jamming device at parliament during SONA.

37. I was also required to brief the National Assembly Speaker, Ms Baleka Mbete, National Council of Provinces chairperson Ms Thandi Modise, and the Secretary to Parliament, Mr Gengezi Mgidlana, on the purpose and deployment of the jamming device.

38. An urgent application to prohibit the use of mobile network blocking devices in Parliament got under way in the Western Cape High Court in Cape Town on 17 February 2015. This was to ensure the public, through the media, have full access to the mid-year State of the Nation debate scheduled to start on 25 July 2015.

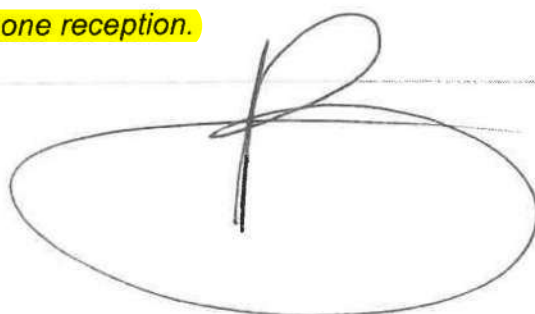
39. The applicants were Primedia Broadcasting, the SA National Editors Forum, the Right to Know campaign, and the Open Democracy Advice centre, who sought an order compelling Parliament to ensure the public, through the media, have full access to the State of the Nation debate. The application was brought in two parts.

39.1. Part A was an application for interim relief which would ensure there is no use of jamming devices in the National Assembly chamber, and that the live video and audio feeds from the House are not interrupted.

39.2. Part B is an application for an order declaring that the use of jamming devices in the chamber is unlawful.

40. On 17 February 2015, the Speaker of the National Assembly, Ms Mbete, made a statement about the jamming device. She said:

"Parliament learnt last Wednesday that a certain 'device' would be used as part of security measures for the state-of-the-nation address, but the plan was never to block journalists' cell phone reception."



It was an item we received as a report along with many other reports, without necessarily knowing the detail, in particular [the] effects, because it was an item dealing with what measures had to be taken for the protection, in particular, of the head of state and the deputy president.

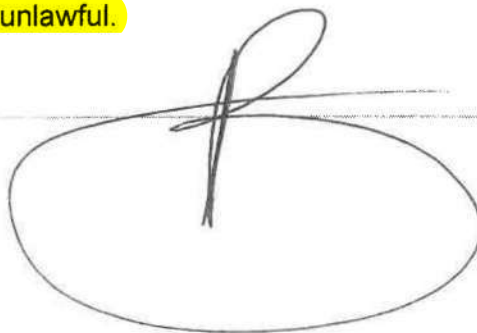
The media was not a target, was not mentioned, was never on anybody's mind, of course what happened, happened.

The device used to block cell phone reception in the Assembly ahead of President Jacob Zuma's address belonged to a state department.

Parliament had since received a report about the incident but it would be left to that department [which she did not name] to relay that to the media.

The media will be addressed [by the department] and they will be able to probe the detail of that report that will come from the owners of the device."

41. On 28 May 2015, the High Court delivered its judgment on this matter. The High Court dismissed the application and ruled that Parliament may restrict media access to its proceedings and that it had not acted illegally by using a signal jamming device.
42. I attach a copy of the first page of this judgment **marked SB1**.
43. The Judges who heard this matter are Justice Daniel Dlodlo, Justice Robert Henney and Justice Kate Savage.
44. Justice Savage delivered a dissenting judgment.
45. Leave to appeal was granted, and the applicants took the matter to the Supreme Court of Appeal ("**SCA**").
46. On 29 September 2016, the SCA unanimously ruled that Parliament's broadcasting policy and rules were unconstitutional because they violated the right to an open Parliament and it found that using the jamming device without permission from the Speaker of the House and Chairperson of the National Council of Provinces was unlawful.



47. I attach the first page of the SCA judgment marked **SB2**.

Further information regarding the payment of Judges by Minister Mahlobo from SSA covert funds

- 4B. I was subsequently informed by the Director of the Domestic Branch of the SSA, Dr Bheki Langa, and also saw records, that Dr Langa had authorised the drawing of R12 million cash from the Special Operations budget. This money, Dr Langa said, was packed into paper bags and was received by SSA Special Operative **Frank** for delivery to Minister Mahlobo for payments to Judges to influence the Judiciary.
49. **Frank** was the Project Manager of Project Justice within the Chief Directorate of Special Operations ("CDSO") under Mr Dlomo.
- S0. **Frank** in turn, informed me that he had delivered the R12 million cash to Minister Mahlobo. I was told by **Frank** that Minister Mahlobo had in his presence removed R4 million in cash, saying that this was for the payment of Judges who were his operatives. The rest of the money was for other Special Operations run by Minister Mahlobo.
- S1. Mr **Frank** told me that he regularly transported cash to Minister Mahlobo and was sometimes accompanied by **Sharon**. **Sharon** was employed at SSA as an HR Consultant prior to transferring to the CDSO as a Staff Officer. She was appointed as the acting Manager for Presidential Security Support (PSS) Directorate in 2013. From discussions with her and records that I have seen at the time that the High Level Review Panel on the SSA was sitting, she was involved in withdrawing temporary advances/cash worth R4.5 million per month over a period of six (6) months for projects. These monies were not properly accounted for. **Sharon** has told me that these monies were apparently given to Minister Mahlobo for the Special Operations he ran.

A Rival Trade Union to AMCU

52. I recall that during 2015, I was called to meet with Minister Mahlobo on at least three other occasions. I am not able to place these meetings in the correct chronological order with any certainty, but they all occurred during 2015. Neither



STEVEN

I certify that the deponent has acknowledged that he knows and understands the contents of this statement. This statement was sworn to before me and the deponent's signature was placed thereon in my presence on this the 18th day of November 2020 at CENTURION (FIC BUILDING)


COMMISSIONER OF OATHS
EX OFFICIO
ABRAM TERANE BINANG
PRINCIPAL INVESTIGATOR
114 MORABA STREET
PRETORIA



IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

5B1

REPORTABLE

CASE NO. 2749/2015

In the matter between:

PRIMEDIA BROADCASTING,
A DIVISION OF PRIMEDIA [PTY] LTD
SOUTH AFRICAN NATIONAL EDITORS' FORUM
RIGHT2KNOW CAMPAIGN
OPEN DEMOCRACY ADVICE CENTRE

1ST APPLICANT
2ND APPLICANT
3RD APPLICANT
4TH APPLICANT

AND

SPEAKER OF THE NATIONAL ASSEMBLY
CHAIRPERSON OF THE NATIONAL COUNCIL
OF PROVINCES
SECRETARY TO PARLIAMENT
MINISTER OF STATE SECURITY

1ST RESPONDENT
2ND RESPONDENT
3RD RESPONDENT
4TH RESPONDENT

CORAM: DLODLO, J et HENNEY, J et SAVAGE, J

JUDGMENT DELIVERED ON THURSDAY, 28 MAY 2015

DLODLO, J

[1] On 12 February 2015 the President's annual State of the Nation Address (SONA) was characterised and almost marred by two incidents forming the subject matter of the present application. These incidents are that in the first place the State Security Agency employed a device that jams mobile telecommunication signals. Consequently journalists and MPs attending SONA were rendered unable to use their cellphones in order to inform members of the public not in attendance about the happenings in Parliament. This, however, lasted for a short period as it was swiftly addressed by the relevant authorities. Secondly, the Applicants aver that members of the

JB 2.



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Reportable

Case No: 784/2015

In the matter between:

**PRIMEDIA BROADCASTING (A DIVISION OF
PRIMEDIA (PTY) LTD)
SOUTH AFRICAN NATIONAL EDITORS' FORUM
RIGHT2KNOW CAMPAIGN
OPEN DEMOCRACY ADVICE CENTRE**

**FIRST APPELLANT
SECOND APPELLANT
THIRD APPELLANT
FOURTH APPELLANT**

and

**SPEAKER OF THE NATIONAL ASSEMBLY
CHAIRPERSON OF THE NATIONAL COUNCIL
OF PROVINCES
SECRETARY TO PARLIAMENT
MINISTER OF STATE SECURITY**

**FIRST RESPONDENT
SECOND RESPONDENT
THIRD RESPONDENT
FOURTH RESPONDENT**

Neutral Citation: *Primedia Broadcasting v Speaker* (784/2015) [2016] ZASCA 142
(29 September 2016)

Coram: Lewis, Cachalia, Tshiqi, Swain and Zondi JJA

Heard: 7 September 2016

Delivered: 29 September 2016, corrected 23 November 2016

Summary: Constitutional law: Parliament: The rules and policy adopted by Parliament governing the broadcast of disorder in the Parliamentary Chamber violate the public's right to an open Parliament and are unconstitutional and unlawful. The disruption of the cell phone signal in Parliament during the State of the Nation address was in contravention of the s 4(1) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 and was unlawful.

A large, stylized signature in black ink, consisting of a large loop and a vertical stroke.

A



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17 Empire Road,
Parktown
Johannesburg
2193
Tel (International): +27 (10) 214-0651
Tel (Tollfree): 0800 222 097
Email: inquiries@sastatecapture.org.za
Web: www.sastatecapture.org.za

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

NOTICE IN TERMS OF RULE 3.3

TO : AMBASSADOR SONTOKUDJOE
EMAIL : sontokudjoe@dod.mil.za

IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE (“THE COMMISSION”), YOU ARE HEREBY GIVEN NOTICE THAT:

- 1 The Commission’s Legal Team intends to present the evidence **MR LLOYD MHLANGA** (“**Mr Mhlanga**”) at its hearing held at Old Council Chamber of the Municipality of the City of Johannesburg, 158 Civic Boulevard Braamfontein, Johannesburg. The presentation of the evidence of Mr Mhlanga will be heard between **25 and 29 January 2021**, or so soon thereafter as his evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website (www.sastatecapture.org.za) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 The allegations set out in the evidence of Mr Mhlanga implicate or may implicate you in, *inter alia*, allegedly participating in acts of corruption, bribery, fraud and/or money laundering. In amplification, it is alleged *inter alia* that:
 - 2.1 Mr Mhlanga was engaged to strengthen and enhance the internal investigations which were being conducted by the State Security Agency into the malfeasance discovered in its covert special operations and counter intelligence units. You

were implicated in these investigations during your tenure as the Director General of the SSA from 2013 to 2016 but despite your implication, you were appointed as the Secretary for the South African Defence Force on 23 July 2020.

- 3 The relevant portions of the affidavit of Mr Mhlanga which implicate or may implicate you in the above allegations are annexed hereto marked “A”. Your attention is drawn to **paragraph 44**.
- 4 Please note that the names of certain individuals recorded in the affidavit of Mr Mhlanga have been redacted for reasons of security. A pseudonym marked in red text will replace those names.
- 5 Due to the fact that you are implicated or may be implicated by the evidence of Mr Mhlanga, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr Mhlanga will be uploaded on the Commission’s website as soon as he concludes his evidence. The transcript will be uploaded daily.
- 6 If you wish to:
 - 6.1 give evidence yourself;
 - 6.2 call any witness to give evidence on your behalf; or
 - 6.3 cross-examine the witnessthen you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.
- 7 An application referred to in paragraph 6 above must be submitted to the Secretary of the Commission. The application must be submitted with an affidavit from you in which you respond to the witness’s statement insofar as it implicates you. The affidavit must identify what parts of the witness’s statement are disputed or denied and the grounds on which they are disputed or denied.

- 8 If you wish to apply to cross-examine the witness, your application must follow the requirements of Rule 11.3. In other words, it must be a substantive application on affidavit accompanied by a notice of motion.
- 9 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 10 Please take note that even if you do not make an application under Rule 3.4:
 - 10.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and
 - 10.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.
- 11 The witness statement and annexures provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.
- 12 Any response to or application in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Ms Rachel Niewenhuis at secretary@commissionsc.org.za.

DATED AT PARKTOWN ON THIS 9th DAY OF JANUARY 2021.



PROF ITUMELENG MOSALA
Secretary
Judicial Commission of Inquiry into Allegations
of State Capture, Corruption and Fraud
in the Public Sector including Organs of State

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

AFFIDAVIT

I, the undersigned,

Lloyd Mhlanga

do hereby make oath and state that:

1. At the time relevant to this affidavit, I was the
Acting Director: Domestic Branch of the State

Mr. [Signature]

- 38 -

44. It is worth mentioning that on 13 August 2019, Advocate Muofhe was appointed to my position at SSA, Mr Fraser, who was seriously implicated in our investigations, has been appointed as the National Commissioner of Correctional Services and Ambassadors Kodjoe, who was the DG of the SSA from 2013 to 2016 and was also implicated in our investigation, was appointed as the Secretary for South African Defence Force (“SANDF”) on 23 July 2020.

45. I, who was brought back to the SSA to assist with the investigation and have done nothing other than performing the job I was appointed to do, have been left unemployed. It is with untold regret that I believe that my removal from the SSA was to stifle

Handwritten signature and initials in black ink, located at the bottom right of the page.

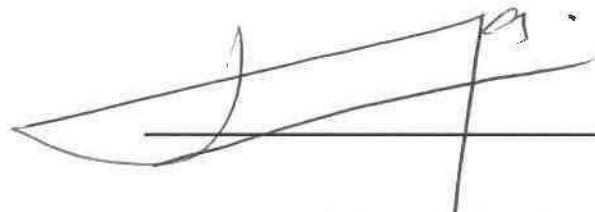
- 39 -

the investigation and that the capture of the SSA remains an issue today.

I know and understand the contents of this declaration.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.



LLOYD MHLANGA

I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was

signed and sworn to before me at
Pretoria on this 30th
day of NOVEMBER 2020 and the Regulations
contained in Government Notice R1258 of 21 July 1972,
as amended, have been complied with.



REBHONE MATLAWA DIKOTLA
ADAMS & ADAMS
Lynnwood Bridge
4 Daventry Street
Lynnwood Manor
Pretoria 0081
COMMISSIONER OF OATHS
Practising Attorney R.S.A.

COMMISSIONER OF OATHS

EX OFFICIO

FULL NAMES:

PHYSICAL ADDRESS:

DESIGNATION



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17 Empire Road,
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2193
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Tel (Tollfree): 0800 222 097
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Web: www.sastatecapture.org.za

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

NOTICE IN TERMS OF RULE 3.3

TO : AMBASSADOR SONTOKUDJOE
EMAIL : sonto.kudjoe@dod.mil.za

IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE (“THE COMMISSION”), YOU ARE HEREBY GIVEN NOTICE THAT:

- 1 The Commission’s Legal Team intends to present the evidence of **DR SYDNEY MUFAMADI (“Dr Mufamadi”)** at its hearing to be held at the Old Council Chamber of the Municipality of the City of Johannesburg, 158 Civic Boulevard Braamfontein, Johannesburg. Dr Mufamadi’s evidence will be presented between **25 January 2021 and 29 January 2021**, or so soon thereafter as the evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website (www.sastatecapture.org.za) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 The allegations set out in the evidence of Dr Mufamadi implicate or may implicate you in, *inter alia*, allegedly participating in various acts of corruption, bribery, fraud, money laundering and/or tax evasion.
- 3 The relevant portions of the statement of Dr Mufamadi which implicate or may implicate you in the above allegations are annexed hereto marked “A”. Your attention is drawn to **paragraph 9.1 read with 9.6.**

- 4 Please note that the names of certain individuals recorded in the statement of the witness have been redacted for reasons of security. A pseudonym marked in red text will replace those names.
- 5 Due to the fact that you are implicated or may be implicated by the evidence of Dr Mufamadi, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Dr Mufamadi will be uploaded on the Commission's website as soon as he concludes his evidence. The transcript will be uploaded daily.
- 6 If you wish to:
 - 6.1 give evidence yourself;
 - 6.2 call any witness to give evidence on your behalf; or
 - 6.3 cross-examine the witnessthen you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.
- 7 An application referred to in paragraph 6 above must be submitted to the Secretary of the Commission. The application must be submitted with an affidavit from you in which you respond to the witness's statement insofar as it implicates you. The affidavit must identify what parts of the witness's statement are disputed or denied and the grounds on which they are disputed or denied.
- 8 If you wish to apply to cross-examine the witness, your application must follow the requirements of Rule 11.3. In other words, it must be a substantive application on affidavit accompanied by a notice of motion.
- 9 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 10 Please take note that even if you do not make an application under Rule 3.4:

- 10.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and
- 10.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.
- 11 The witness statement and annexures provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.
- 12 Any response to or application in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Ms Rachel Niewenhuis at secretary@commissionsc.org.za.

DATED AT PARKTOWN ON THIS 8TH DAY OF JANUARY 2021.



PROF ITUMELENG MOSALA
Secretary
Judicial Commission of Inquiry into Allegations
of State Capture, Corruption and Fraud
in the Public Sector including Organs of State

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

AFFIDAVIT

I, the undersigned,

FHOLISANI SYDNEY MUFAMADI

do hereby declare under oath and state that:

1. Introduction

- 1.1. I am an adult male residing in Gauteng. I am currently employed by the University of Johannesburg as Director of the Centre for Public Policy and African Studies.
- 1.2. I confirm that the averments contained in this affidavit fall within my personal knowledge except where the converse is expressly stated or where the converse appears from the context in which the statement of facts is made, and they are to the best of my knowledge and belief both true and correct.

Cwele, he was unhappy with how the investigation was conducted. As a result of this investigation, the former President was advised to reconsider his relationship with the family because it may damage his reputation. According to the three, this report was suppressed and in part led to the departure of the three of them from the SSA.

- 8.3. One of the things that surprised the Panel was that the revised Oath of Allegiance that SSA members are expected to take requires members to swear allegiance to the Constitution, the laws of the country and the President. It also requires them to "recognise the authority of the Minister of State Security".

9. The Abuse and Bypassing of Financial and Procurement Controls

- 9.1. A key concern for the Panel was the failure to implement financial controls in the SSA. In particular, this applies to the failures in the adherence to operational directives and especially those which apply to special operations.

- 9.2. A key element of this is the fact that most of the operational financial transactions of the Agency are done by means of cash. This is to hide the fact that the origins of the payments are the SSA. This would, among others, apply to the payment of sources, purchases of certain fixed and moveable assets, running costs of cover entities etc. This fact is a major vulnerability in the system of financial controls given that, often, proof of the legitimate disbursement of such cash payments has to avoid revealing the identity of the recipient or that, indeed, the intended recipient actually received the funds.

these matters has been completely absent or inadequate. The Panel was informed by one SSA officer of a case where it was discovered that a member was underpaying a source and pocketing the balance himself. When this was reported to the relevant General Manager, he simply imposed a sanction that the officer should repay the money through salary deductions. There was no consequence for the criminal act of theft of state funds. The Panel noted that there is a fine line between such losses incurred being administrative or criminal.

9.6. The Panel received a submission from several members working in the Finance department. They alleged that Dwayne (Management Accounting) restructured the budget process leading to the collapse of the budget structure for domestic intelligence. The DG at the time was Ambassador Sonto Kudjoe. Dwayne removed all divisional heads and concentrated authority in his hands. This concentration stripped further powers from the Chief Financial Officer (CFO) and effectively made Dwayne the budget controller for all of the SSA, including the provinces. This concentration of power reduced transparency and enabled the movements of funds to areas of the SSA favoured by the SSA leadership, such as Ambassador Kudjoe and Mr Dlomo.

9.7. The Panel received briefings on the theft of over R17 million from a safe inside the SSA complex in December 2015. In spite of video footage of the perpetrators and the outcome of internal investigations, there appears to have been no consequence management for this incident. Of particular concern is the report the Panel received that the Head of the DPCI ("Hawks") at the time, General

11.6. I believe that the information provided in the report, as well as the report's findings and recommendations, will assist the Commission in its investigation.

I know and understand the contents of this declaration.

I have no objection to take the prescribed oath.

I consider the oath to be binding on my conscience.

So help me God.

[Handwritten signature]

Deponent

I certify that the deponent acknowledged that he knows and understands the contents of this affidavit, that he has no objection to taking the prescribed oath and that he considers this oath to be binding on his conscience. I also certify that this affidavit was signed in my presence at Pretoria on this the 30 day of **NOVEMBER 2020** and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended by Government Notice R1648 of 19 August 1977, have been complied with.

[Handwritten signature]
CG VAN SCHANKE
CAPTAIN
123456789-0

COMMISSIONER OF OATHS

FULL NAMES: *Christoffel Gerhardus van Scherke*
STREET ADDRESS: *Sandans Economic Offices Unit*
83 Steve Biko street, Arcadia, Pretoria
CAPACITY: *Captain*
AREA: *Pretoria.*

SOUTH AFRICAN POLICE SERVICE
SERIOUS ECONOMIC OFFENCES UNIT
2020 -11- 30
ERNSTIGE EKONOMIESE MISDRIEWE EENHEID
SUID-AFRIKAANSE POLISIEDIENS