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**EXHIBIT NN 3**

**NELISWE MILDRED  
OLIPHANT**

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

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**AFFIDAVIT**

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I, the undersigned,

  
**NELISWE MILDRED OLIPHANT**

do hereby make the following statements under oath:

**BACKGROUND**

1. I am the former Minister of Labour between November 2010 to May 2019.
2. The facts to which I depose are true and correct and are within my personal knowledge except where it is apparent from the context that they are not.
3. In or around 1994, I was elected as a member of the Legislature in Kwa-Zulu Natal till 1999. From the years 1999 to 2004, I was a member of the National Assembly. From the years 2004 to 2009, I was a member of the National Council

*MAD*  
*me*

of Provinces. In or around 2009, I was again a member of the National Assembly, as the House Chair of International Relations, till 30 October 2010.

#### APPOINTMENT AS MINISTER

4. On Saturday, 29 October 2010, I returned home from a parliamentary visit to China led by the Speaker of the National Assembly.
5. On Sunday morning, 30 October 2010, while I was home, I received a call from the former President Zuma informing me that the ANC officials had taken a decision to deploy me as the Minister of Labour and that I should come on the 1<sup>st</sup> of November 2010 to be sworn in as Minister.
6. Shortly after my conversation with the former President, I was contacted by Ms Lakela Kaunda, from the Presidency, who facilitated my travel arrangements from Kwa-Zulu Natal to Johannesburg and back for the next day, being 1 November 2010. I informed Ms Kaunda that I would be returning to Kwa-Zulu Natal on the same day.
7. On the morning of 1 November 2010, while I was at Durban International Airport, I received a call from the then Acting Director-General of the Department of Labour, Mr Sam Morotoba, who congratulated me on my appointment and informed me that the Department was available to assist with any travel arrangements, should I need them. Upon my arrival at Jan Smuts International

Airport (now OR Tambo International Airport) I was transported to the Presidential Guesthouse, now known as Sefako Makgato Guesthouse. I was received by some officials from the Presidency where I was presented with an attendance register reflecting names against which I had to append my signature as confirmation of my presence.

8. On the same day, after having been sworn in, I was taken back to Jan Smuts International Airport to return to Kwa-Zulu Natal in accordance with the arrangements made with Ms Kaunda. I had wanted to return to Kwa-Zulu Natal for the remainder of the week in order to reflect on my deployment as the Minister of Labour, as I was enjoying my position as House Chair of International Relations and expected to finalise the report on our parliamentary visit to China.
9. On Monday, 8 November 2010, I returned to the Department of Labour for the briefing by senior officials, led by Mr Morotoba. I was briefed about the role of the Department and the branches that the Department has. In that meeting it was agreed that I would be briefed by the various Deputy Directors-General on a one-on-one basis about the various roles and programmes that each branch was concerned with. There was no handover process from former Minister, Mr Mdladlana, apart from having received a text message from him advising me that he was available to be called at any time should I need any information regarding the Department.

10. The meetings with the various Deputy Directors-Generals lasted about two weeks starting on Monday, 10 November 2010 till 19 November 2010.

**CALL FROM MR JIMMY (MZWANELE) MANYI**

11. The following week, I was contemplating approaching the then Director-General in the Presidency, Mr Cassius Lubisi, about the Director-General in the Department of Labour. The Director-General in the Presidency, as the head of the Directors-General, was the person to approach for information about the Director-General of the Department of Labour. I then received a call from Mr Manyi who congratulated me on my appointment and informed me that he was intending to appeal the decision to dismiss him or take the Department of Labour to court over his dismissal. At that stage, I was not aware that Mr Manyi had been dismissed as Mr Morotoba had not informed me during the briefing process. I told Mr Manyi that I did not have that information and that I was still to be briefed by the Department. I then called Mr Morotoba to brief me about the situation regarding the Director-General. Mr Morotoba said that he would arrange a meeting with Department's Legal Services who were familiar with the issues.
12. Within two or three days, I met with the Department's Legal Services team, which included external senior counsel who were led by Advocate Pasha. Advocate Pasha confirmed that Mr Manyi had been dismissed. However, I was not given the full details relating to the reasons for Mr Manyi's dismissal apart from the fact that Minister Mdladlana had dismissed him two or three days before my

appointment. Advocate Dokota informed me that Mr Manyi was dismissed because he did not respect the Minister. I was not shown any documentation relating to Mr Manyi.

#### DISCUSSIONS WITH MINISTER RICHARD BALOYI

13. Around the first week of December 2010, before the commencement of the Cabinet Committee meeting, I informally approached and raised the issue of Mr Manyi's dismissal with the then Minister of Public Service and Administration, Minister Richard Baloyi, as the custodian of the Public Service Act. I informed him that the Legal Services team did not give me the full information relating Mr Manyi's dismissal and I therefore asked him to procedurally assist with the matter and he agreed. Minister Baloyi advised me to meet with Mr Manyi in order to ascertain whether Mr Manyi intended to appeal the decision to dismiss him or take the Department of Labour to court.
14. I was not aware of any appeal that Mr Manyi may have lodged. If he had in fact lodged an appeal against his dismissal, he would have had to lodge it directly with the Department of Public Service and Administration and not with the Department Labour. According to my understanding, the dismissal was done by the Minister in the Department of Labour and therefore an appeal would lie with the custodian of the Public Service Act, being the Department of Public Service and Administration.

15. Shortly after my informal meeting with Minister Baloyi I called Mr Manyi and we met at the Sheraton Hotel in Pretoria. I asked Mr Manyi for his reasons for wanting to take the Department of Labour to court. Mr Manyi responded that it was because of the former Minister's decision to have him dismissed. I then said to Mr Manyi that, in respect of an appeal against the decision to dismiss him, I believed he would have to lodge the appeal with Department of Public Service and Administration. That is all we discussed at our meeting.
16. In December 2010, before the rising (recess), I met with Minister Baloyi. I cannot recall whether it was at a full Cabinet meeting or at a Parliamentary session. Minister Baloyi informed me that he had looked at the matter and that he was going to commence the processes of determining whether proper procedures in regard to Mr Manyi were followed. He then said he would take over the process as the custodian of the Public Service Act.
17. In or around January 2011, Mr Baloyi informed me that he had finalised the process regarding Mr Manyi. He further informed me that, in accordance with the procedures, Mr Manyi would either have to return to the Department of Labour or be transferred to another Department. Mr Baloyi did not inform me of what procedures were followed nor of their outcomes. I then requested Mr Baloyi to please transfer Mr Manyi to another Department for the following two reasons: (a) the fact that he was dismissed by the Department of Labour and (b) because I wanted to create stability within the Department. My experience was that Mr Manyi's dismissal had created the instability within the Department, having

received correspondence addressed to me from NEHAWU demanding that Mr Manyi be reinstated.

#### WITHDRAWAL OF DISMISSAL AND PLACEMENT ON SPECIAL LEAVE

18. Mr Baloyi advised me that, according to the procedures that ought to be followed in the transfer of Mr Manyi, I must write a letter withdrawing Mr Manyi's dismissal in terms of Section 5(7) of the Public Services Act and place him on special leave. I was also informed that the letter would correct Mr Manyi's dismissal and would afford Mr Baloyi time to deal with the process of transferring Mr Manyi to another Department within three months, failing which, Mr Manyi would then have to return to the Department of Labour.
19. I then discussed the advice that Mr Baloyi gave me with the Department's Legal Services, including the Head of Department's Legal Services, Advocate Pasha. The Legal Services team supported Mr Baloyi's advice and supported the decision for me to write the letter.
20. On 31 January 2011, I wrote a letter, on the advice of Minister Baloyi and the Department's Legal Services, informing Mr Manyi that I had decided to withdraw his dismissal from Public Service in terms of Section 5(7) of Public Service Act of 1994 as amended with immediate effect and that he would be placed on special leave until further notice. My understanding was that the withdrawal of the dismissal would be of effect from 1 December 2010 because that was the date



from which the dismissal became effective. Minister Baloyi was copied in the letter and I assumed that he would make sure that Human Resources within the Department of Labour would be apprised of both the withdrawal of Mr Manyi's dismissal and his placement on special leave. Mr Manyi was also meant to submit the letter to Human Resources in the Department of Labour. There is no other paper work relating to the withdrawal of Mr Manyi's dismissal and his placement on special leave that I filled out.

#### **TRANSFER OF MR JIMMY MANYI**

21. I cannot recall whether Minister Baloyi informed me that Mr Manyi would be transferred to another Department before or after I signed the letter withdrawing his dismissal and placing on special leave. However, I was aware of Mr Manyi's transfer to another Department before the pronouncement of his transfer to Government Communication and Information System by the Cabinet's spokesperson.
22. There was no need for me to take Mr Manyi off special leave since he was being transferred to another Department and the processes were being dealt with by Minister Baloyi and therefore he would be the one to take Mr Manyi off special leave.





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 17 Empire Road  
 Parktown  
 Johannesburg  
 2193  
 Tel: (010) 214-0651  
 Email:  
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**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
 CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

**CHAIRPERSON'S DIRECTIVE IN TERMS OF REGULATION 10(6) OF THE  
 REGULATIONS OF THE COMMISSION**

**TO :** NELISWE MILDRED OLIPHANT

**ADDRESS :** B465, IMPALA CRESENT,  
 NGWELEZANE TOWNSHIP EMPANGENI,  
 CWAKA,  
 3880

**TEL :**

**EMAIL :** [moliphant28@gmail.com](mailto:moliphant28@gmail.com)

1. By virtue of the powers vested in me in my capacity as Chairperson of the above-mentioned Commission by Regulation 10(6)\* of the Regulations of the Judicial Commission of Inquiry Into Allegations of State Capture, Corruption and Fraud In the

\*Regulations 10(6) of the Regulations of the Commission reads: "For the purposes of conducting an investigation the Chairperson may direct any person to submit an affidavit or affirmed declaration or to appear before the Commission to give evidence or to produce any document in his or her possession or under his or her control which has a bearing on the matter being investigated, and may examine such person."

Public Sector Including Organs of State, I hereby direct you, **Ms Nelisiwe Oliphant**,  
to:

1.1 deliver on or before **Monday, 7 October 2019** to the Secretary or Acting Secretary of the Commission at the address given above an affidavit or affirmed declaration in which you set out, to the best of your knowledge, all the facts known to you about:

(a) what, according to the records of the Department of Labour or according to what you may have been told by your then immediate predecessor or officials within the Department of Labour or other government officials or of the National Executive, were the reasons for, or the circumstances surrounding, Mr Mzwanele Manyi's dismissal as Director-General of the Department of Labour before your appointment as Minister of Labour;

(b) whether any formal process had ever been initiated by or on behalf of Mr Mzwanele Manyi to appeal the decision to dismiss him and, if there was such a process, what its outcome was;

(c) the circumstances surrounding, and, the reasons for, your withdrawal of Mr Manyi's dismissal as Director-General of the Department of Labour;

(d) the circumstances surrounding, and, the reasons for, your decision to place Mr Manyi on special leave when you withdrew his dismissal as Director-General of the Department of Labour; and

(e) the circumstances surrounding, and; the reasons for, the transfer of Mr Manyi from the Department of Labour to the position of Chief Executive Officer of Government Communications and Information System.

2. When you provide your account on the issues listed above, please ensure that you provide full details of any and all meetings, discussions, interactions or correspondence, with other persons including, but not limited to, who they were with, when they occurred, who was present, and, where applicable, provide copies of any relevant documents.
2. If you would like assistance from the Commission in order to prepare the affidavit or affirmed declaration, you must, within five days (excluding weekends and public holidays) of receipt of this directive, contact, or, communicate with, the Secretary or Acting Secretary of the Commission and indicate that you would like such assistance in which case the Commission will provide someone to assist you with the preparation of the affidavit or affirmed declaration. In such a case you will not pay anything for such assistance. Should you have difficulty in reaching the Secretary or Acting Secretary or should the Secretary or Acting Secretary not return your call or respond to your letter or emails, you may contact Ms Lerato Chesi-Buthelezi at 060 773 9825 or at [leratob@commissionsc.org.za](mailto:leratob@commissionsc.org.za).
3. If, in order to prepare the affidavit, or affirmed declaration, you do not need any assistance from the Commission, you must, with or without the assistance of a lawyer of your own choice, prepare the affidavit or affirmed declaration without such assistance and have it delivered to the Secretary or Acting Secretary of the Commission on or

before the date given above for the delivery of the affidavit. If you make use of a lawyer of your own choice to assist you to prepare such affidavit or affirmed declaration, the Commission will not be responsible for the payment of your lawyer's fees or costs.

4. This directive is issued for the purpose of pursuing the investigation of the Commission.
5. Your attention is drawn to Regulations 8(2), 11(3)(a) and (b) and 12(2)(b) and (c) of the Regulations of the Commission. Regulation 8(2) reads:

“8 (1) ...  
 (2) A self-incriminating answer or a statement given by a witness before the Commission shall not be admissible as evidence against that person in any criminal proceedings brought against that person instituted in any court, except in criminal proceedings where the person concerned is charged with an offence in terms of section 6 of the Commissions Act, 1947 (Act No. 8 of 1947).”

Regulation 11(3)(a) and (b) reads:

“11 (1) ...  
 (2) ...  
 (3) No person shall without the written permission of the Chairperson—  
 (a) disseminate any document submitted to the Commission by any person in connection with the inquiry or publish the contents or any portion of the contents of such document; or  
 (b) peruse any document, including any statement, which is destined to be submitted to the Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.”

Regulation 12(2)(b) and (c) reads:

“12 (1) ...  
 (2) Any person who  
 (a) ...  
 (b) wilfully hinders, resists or obstructs the Chairperson or any officer in the exercise of any power contemplated in regulation 10; or

- (c) contravenes a provision of regulation 11, is guilty of an offence and liable on conviction -
  - (i) in the case of an offence referred to in paragraph (a) to a fine, or to imprisonment for a period not exceeding six months; and
  - (ii) in the case of an offence referred to in paragraph (b) or (c), to a fine, or to imprisonment for a period not exceeding 12 months.”

SIGNED IN Johannesburg THIS 19<sup>th</sup> DAY OF Sept 2019.



**JUSTICE RMM ZONDO**  
**DEPUTY CHIEF JUSTICE OF THE REPUBLIC OF SOUTH AFRICA**

and

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



**Lerato L. Buthelezi**

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**From:** Lerato L. Buthelezi  
**Sent:** Friday, 25 October 2019 15:48  
**To:** 'moliphant28@gmail.com'  
**Cc:** Boipelo B. Ratshikana  
**Subject:** Appearance before the Commission  
**Attachments:** Letter to Ms Oliphant confirming appearance before the commission 25.10.19.pdf

Dear Ms Oliphant

Please find correspondence attached for your attention.

Kind regards

**Lerato Buthelezi**

**COMMISSION OF INQUIRY INTO STATE CAPTURE** Hillside House, 3rd Floor, 17 Empire Road, Parktown, Johannesburg, 2193, Gauteng South Africa,  
email: [leratob@commissionsc.org.za](mailto:leratob@commissionsc.org.za), [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

Date: 25 October 2019

Ref: LB/Ms Oliphant

**BY EMAIL: [moliphant28@gmail.com](mailto:moliphant28@gmail.com)**

Ms Mildred Oliphant  
 B465, Impala Crescent,  
 Ngwelezane Township Empangeni,  
 Cwaka  
 KWAZULU NATAL  
 3880

Dear Madam

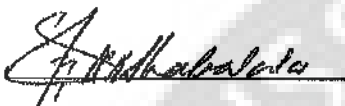
**Re: Appearance to give oral evidence before the Commission**

1. We refer to previous interactions between yourself and representatives of the Commission. We confirm that you were previously advised that you would be requested to appear before the Commission during the week of the 4<sup>th</sup> of November 2019.
2. This letter serves to advise that you are requested to appear before the Commission on Fourth Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg, 2193, on **Thursday, 7 November 2019** at 10h00 to give oral evidence and be asked questions on the withdrawal of Mr Mzwanele Manyi's dismissal as Director-General of the Department of Labour and his transfer from

the position of Director-General of the Department of Labour to that of Chief Executive Officer of Government Communication and Information System on or about 3 February 2011.

3. Please be advised that you are to present yourself at the Commission at 09h00 for registration before the commencement of the hearings at 10h00.

Yours sincerely

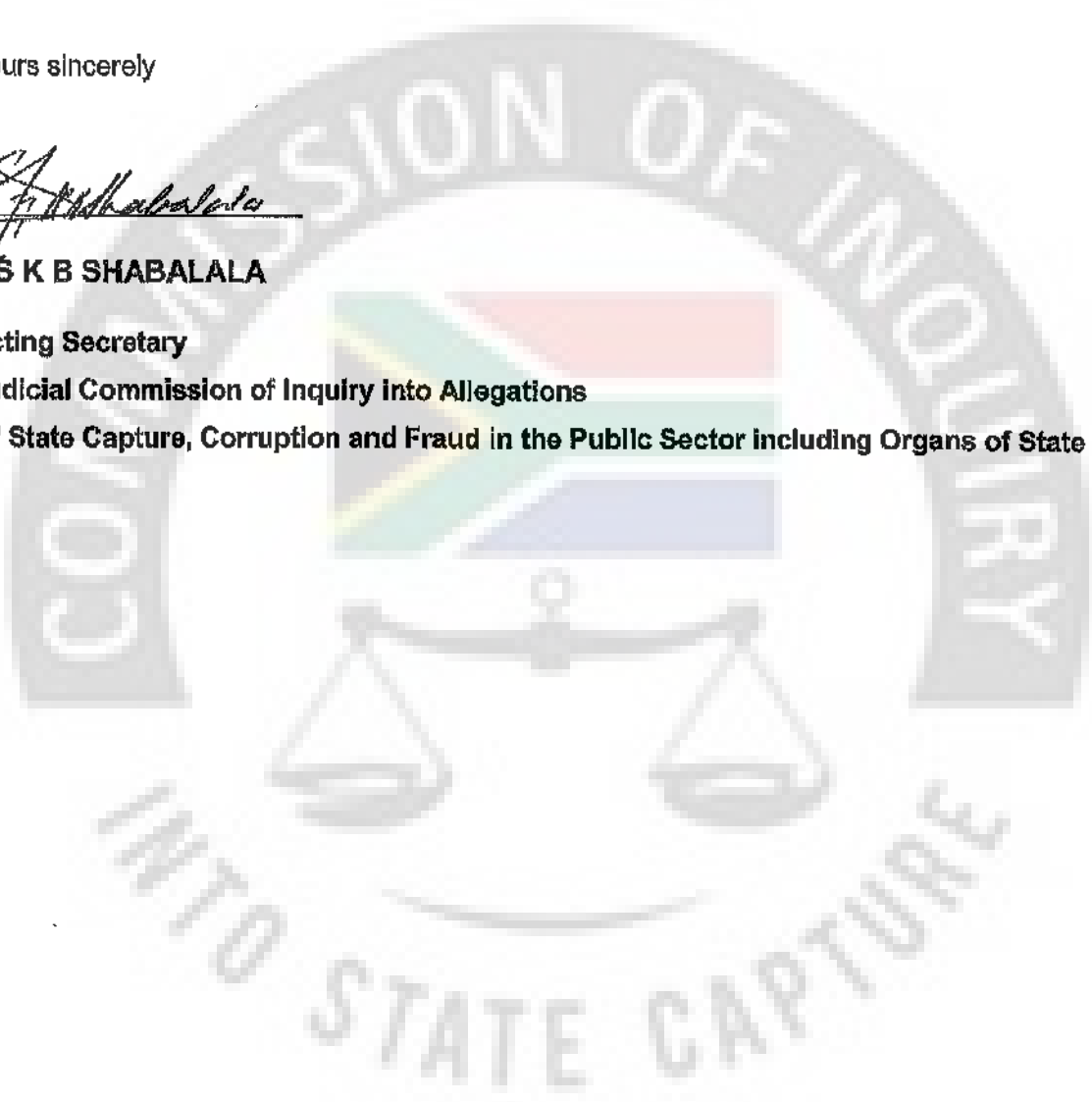


**M S K B SHABALALA**

**Acting Secretary**

**Judicial Commission of Inquiry into Allegations**

**Of State Capture, Corruption and Fraud in the Public Sector including Organs of State**



**Lerato L. Buthelezi**

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**From:** Lerato L. Buthelezi  
**Sent:** Friday, 01 November 2019 15:31  
**To:** 'moliphant28@gmail.com'  
**Cc:** Boipelo B. Ratshikana  
**Subject:** NOTIFICATION OF CHANGE OF VENUE FOR HEARINGS FOR THE WEEK 4-8 NOVEMBER 2019

Dear Ms Oliphant

1. I confirm that a letter informing you of your scheduled appearance before the Commission on **Thursday, 7 November 2019 at 10h00**, was emailed to you on 25 October 2019.
2. I confirm that at 12h10 on even date I telephoned you to no avail.
3. Please be advised that during the week of 4-8 November 2019 the hearings will take place at the **City of Johannesburg Council Chamber, 158 Civic Boulevard, Braamfontein** and NOT Hill on Empire.
4. Please present yourself at the City of Johannesburg Council Chamber at 9h00 for registration.
5. Please let us know, as a matter of urgency, whether you require travel arrangements for your appearance next week. In the event that you do not the Commission will take it that you will carry your own travel costs.

Thank you for your cooperation and we look forward to hearing from you.

Kind regards

**Lerato Buthelezi**

**COMMISSION OF INQUIRY INTO STATE CAPTURE** Hillside House, 3rd Floor, 17 Empire Road, Parktown, Johannesburg, 2193, Gauteng South Africa,  
email: [leratob@commissionsc.org.za](mailto:leratob@commissionsc.org.za), [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

Cell: 0607739825





TAX INVOICE

Our Ref: H1911/774  
Case No: SPS12/0164/KH

In the case between:

COMMISSION OF INQUIRY INTO STATE CAPTURE and OLIPHANT, NELISWE MILDRED	APPLICANT  RESPONDENT
Address as specified: B465 IMPALA CRESCENT, NGWELEZANE TOWNSHIP, EMPANGENI 083.7523933	
<b>SUMMONS TO APPEAR AS A WITNESS ITO SECTION 3(2) OF THE COMMISSIONS ACT 8 OF 1947</b>	

I CERTIFY THAT ON 20 NOVEMBER 2019 AT 19H24, I SERVED THE SUMMONS TO APPEAR AS A WITNESS IN TERMS OF SECTION 3(2) OF THE COMMISSIONS ACT 8 OF 1947 ON THE RESPONDENT, NELISIWE MILDRED OLIPHANT, PERSONALLY IN TERMS OF THE SUPREME COURT ACT 59 OF 1959, RULE 4(1)(A)(I) AT HER PLACE OF RESIDENCE, B465 IMPALA CRESCENT, NGWELEZANE TOWNSHIP, EMPANGENI BY HANDING A TRUE COPY OF THE PROCESS TO HER.

I EXPLAINED THE NATURE AND EXIGENCY OF THE SAID PROCESS TO HER, AFTER I EXHIBITED THE DOCUMENT TO HER.

I PHONED THE RESPONDENT AND SHE CONFIRMED SHE WAS HOME.

NO ORIGINAL DOCUMENTS RECEIVED - ONLY EMAILED DOCUMENTS FOR SERVICE

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I CERTIFY THAT ON 20 NOVEMBER 2019 AT 19H16, I ATTEMPTED TO SERVE THE SUMMONS TO APPEAR AS A WITNESS IN TERMS OF SECTION 3(2) OF THE COMMISSIONS ACT 8 OF 1947 ON THE RESPONDENT, NELISIWE MIDRED OLIPHANT AT THE GIVEN ADDRESS, B465 IMPALA CRESCENT, NGWELEZANE TOWNSHIP, EMPANGENI.

THE PREMISES WERE LOCKED AND UNATTENDED.

I WAS UNABLE TO ASCERTAIN IF THE RESPONDENT IS STILL RESIDING AT THE GIVEN ADDRESS.

I KNOCKED SEVERAL TIMES BUT THERE WAS NO RESPONSE.

DOCUMENT RETAINED FOR FUTHER ATTEMPT.

