



EXHIBIT BB 26

NOMACHULE GIGABA



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

2nd floor, Hillside House
17 Empire Road,
Parktown
Johannesburg
2193

Tel: (010) 214 to 0651

Email: inquiries@sastatecapture.org.za

Website: www.sastatecapture.org.za

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

AFFIDAVIT

I, the undersigned,

NOMACHULE GIGABA (formerly: MNGOMA)

do hereby state under oath that:

1. I am an adult female businessperson residing in Pretoria, Gauteng. I married Mr Knowledge Malusi Gigaba (*“Mr Gigaba”*) on 30 August 2014. Our marriage relationship subsists but we are in the process of getting divorced.
2. All the facts stated in this affidavit are, unless the context indicates otherwise, within my personal knowledge. They are to the best of my knowledge and belief both true and correct.
3. I freely and voluntarily give this affidavit to the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (*“the Commission”*) regarding my knowledge about Mr Gigaba’s involvement and activities on matters that fall within the Commission’s Terms of Reference and areas of investigation. In particular, I deal with my experience and knowledge of Mr Gigaba’s relationship with members of the Gupta family during the time that I have known him. I set out my observations during our visits to the Gupta family home in Saxonwold, Johannesburg (*“the Gupta residence”*), from 2011 to 2018, in which latter year I last met any member of the Gupta family.
4. On 21 and 22 January 2021, the Commission interviewed me.

1.

5. I am also assisted and advised in this matter by my counsel. My attorneys are Ramushu Mashile Twala (RMT), Attorneys.

THE GOVERNMENT POSITIONS HELD BY MALUSI OVER THE PERIOD FROM 2009 TO 2018

6. Mr Gigaba held the positions tabled below over the years from 2004 to 2018:

No.	Period	Position held
1.	29 April 2004 - 31 October 2010	Deputy Minister: The Department of Home Affairs
2.	1 November 2010 - 25 May 2014	Minister: The Department of Public Enterprises ("DPE")
3.	26 May 2014 - 31 March 2017	Minister: The Department of Home Affairs
4.	31 March 2017 - 27 February 2018	Minister: The Department of Finance

7. Mr Gigaba told me that he was active in the planning and coordination of election activities for the African National Congress ("ANC"). As I recall, he was at one time the Head of ANC Elections, nationally.

MY RELATIONSHIP WITH MR GIGABA AND THE GIGABA FAMILY

8. I met Mr Gigaba during 2009 when he was the Deputy Minister of the Department of Home Affairs. During 2010, I moved in with him, to his Pretoria home, when we were expecting our first child. Mr Gigaba gave me a credit card for my use, and to be able to buy household items, which was linked to his money market bank account. We married on 30 August 2014.
9. Mr Gigaba's family home is situated in Mandeni in KwaZulu-Natal.

10. To the best of my knowledge, Mr. Gigaba's sister, Ms Gugu Gigaba, has been employed at Transnet SOC Limited ("*Transnet*") since February 2017 and she is currently a Manager in the Project Management Office.
11. Ms Nozipho Gigaba, Mr Gigaba's sister, at some stage after Mr Gigaba and I were married, lived in our home while she was working at Sahara Computers, a company owned by the Gupta family. Over time, my relationship with Nozipho deteriorated, for reasons which are not relevant for the purposes of this affidavit.

MEETING THE GUPTAS AND VISITS TO THE GUPTA RESIDENCE

12. From the time that I met Mr Gigaba during 2009, when he was the Deputy Minister of the Department of Home Affairs, he would regularly visit persons whom he described as "my advisors" in Johannesburg. According to Mr. Gigaba, he visited "his advisors" to discuss work related matters. At that time, I did not know the identity of "his advisors". I presumed that he was referring to Mr Thami Msomi ("*Mr Msomi*"), whom I understood to be his advisor and Chief of Staff. I had met Mr Msomi before through Mr Gigaba. I am since informed that Mr Msomi was his then Head of the Deputy Minister's Office at the Department of Home Affairs.
13. About 2 to 3 months *before* he took up the position of Minister of the DPE, Mr Gigaba told me when he arrived at home after visiting the Gupta residence that Mr Ajay Gupta (whom he mentioned by name) had told him that he would move from the Department of Home Affairs to the DPE. He was so excited and told me about the portfolio of the DPE. Mr Gigaba was indeed appointed as Minister of the DPE about 2 months later during November 2010. I had not yet personally met Mr Ajay Gupta at the time.
14. Mr Gigaba's visits to his "advisors" became more regular when he became the Minister of the DPE, often more than once per week. When I questioned him as to whether these were his official advisors, he then told me that the Guptas were his unofficial advisors who would advise him in respect of decisions to be made at work and in return he assisted them on certain things.
15. In 2011, during his tenure as Minister of the DPE, I became unhappy with the little time that Mr Gigaba was spending with our children because of his frequent evening visits to his "advisors". Mr Gigaba told me that it was important for him that I meet

- "his advisors". He told me that he would need to take work decisions on the day after his visits to them. He told me that they are responsible for the decisions made at work. He explained to me that as things were happening at work, he needed to report on it to his "advisors".
16. During the time of sittings of Parliament, Mr Gigaba would usually fly down to Cape Town on a Monday evening or Tuesday morning to attend Parliament and return home on the Thursday evening or Friday morning. During this time, he would inform me of his visits to the Guptas on the Mondays (preceding his trip to Parliament) and on the Friday evenings or sometimes on Saturdays (following his return from Parliament). When Parliament was in recess, the meetings took place on any day of the week following receipt of a telephone call. I understand that it was usually Mr Ajay Gupta who would telephone him.
17. I first met his "advisors" and learnt of their identity during 2011, when Mr Gigaba still held the position of Minister of DPE.
- 17.1. During late 2011, Mr Gigaba told me that "his advisors" wanted to meet me and our eldest son - who was born during June 2011. Initially, I did not want to go. Mr Gigaba told me that they are his long-time friends and he wanted me to know where he goes when he says that he is going to his "advisors". I agreed and the meeting took place at the Gupta residence. This was the first time that I met the Guptas. From the meeting I learnt that his "advisors" were the Guptas. At the Gupta residence, I met Mr Ajay Gupta, his wife and their son. There was no formal meeting that took place. Mr Ajay Gupta gifted our son a gold jewellery necklace. I have not seen the necklace since then. According to what Mr. Gigaba would tell me, he would frequently visit the Gupta residence on his own during that year.
- 17.2. On several occasions during 2012, I would visit the Gupta residence in Saxonwold, Johannesburg, together with Mr Gigaba.
- 17.3. After I met the Guptas, Mr. Gigaba would tell me that he is either going to meet "my advisors" or "Ajay".
18. A few months after my second son was born (in December 2012), I visited the Guptas in their residence, upon the invitation of Mr Gigaba, who informed me that the Guptas would like to meet our second child.

19. In 2013, I met persons that Mr Gigaba identified as members of the Gupta family from India one or two days before the Gupta wedding that was held at Sun City. Mr Gigaba told me that he needed to assist the Guptas to welcome and fetch some of their guests at the Waterkloof Airforce base ("*Waterkloof*") who were arriving from India, which I did. Mr Gigaba left me to sit inside the building while he met with the Guptas.
20. On the day of the Gupta wedding, Mr Gigaba called to tell me that he was asked to attend the wedding. I do not know when he received the invitation to the wedding. We packed and were escorted to attend at Waterkloof to receive the Gupta aircraft. When we left Waterkloof, there were many blue light vehicles and metro police. Mr Gigaba and I attended the wedding at Sun City where I briefly met more members of the Gupta family. While at the wedding, I posted on my Facebook a photo of the henna pattern designed on my hand. Mr. Gigaba asked me to remove it from my Facebook postings, as it was generating negative media reporting.
21. I have since been to the Gupta residence on many other occasions in the company of Mr. Gigaba.
22. The procedure each time we attended the Gupta residence was generally the same. We would arrive at the main gate. Mr Gigaba's driver would announce our arrival to the security guard. The driver would be directed where to park. One of the security personnel would escort us into the house and take us to the lounge area before asking us to hand over our cellular phones. Our refreshment, and sometimes meal orders would be taken. Mr Ajay Gupta would arrive to greet me, and after some small talk, he would brief Mr. Gigaba on the meeting that they were about to hold in an adjacent private meeting room. We would often find either Mr Siyabonga Mahlangu ("*Mr Mahlangu*"), Mr Gigaba's former Legal Advisor at the DPE, or Mr Msomi, Mr Gigaba's Chief of Staff at the DPE, or both, at the Gupta residence. Mr Mahlangu would be present more often than Mr Msomi. Mr Gigaba, together with either Mr Mahlangu or Mr Msomi or both if they were present, would enter the adjacent private meeting room.
23. I was often left alone whilst Mr Gigaba attended the private meetings with Mr Ajay Gupta and others in the adjacent private room. I asked Mr Gigaba why I needed to hand over my cellular phone and he told me that it was because the matters that he and others were discussing were confidential as they related to Cabinet, the ANC,

the NEC, and other sensitive matters. It did not make sense to me that I had to hand over my phone because most of the time I was alone while they attended their meetings. Sometimes, I would get bored and fetch my cellular phone to communicate via social media platforms.

24. Apart from Mr Ajay Gupta, Mr Mahlangu and Mr Msomi, I did not see any other attendees of these meetings that Mr Gigaba attended in the adjacent private meeting room. At best, I often heard voices from that room and presumed that there were other attendees present, especially since Mr Ajay Gupta would brief Mr. Gigaba on the meeting that they were about to enter in the adjacent private meeting room. Often, there would be a number of vehicles already parked at the Gupta residence by the time that we arrived, some of which appeared to be official government vehicles with blue lights.
25. As already mentioned, Mr Ajay Gupta would brief Mr. Gigaba in my presence about the meeting that they were about to join. I recall that the topics included a variety of issues including tenders and contract extensions at Transnet; the need to change certain executives and officials at Eskom; matters relating to the cancellation of a South African Airways ("SAA") flight route; and certain people that Mr Gigaba needed to meet prior to a trip to India. I also recall Mr Ajay Gupta talking to a paper dealing with DPE matters to Mr Gigaba that he needed to discuss at the meeting. On one or two occasions, Mr Gigaba reported to Mr Ajay Gupta some of the responses that he had received from Ms Dudu Myeni ("*Ms Myeni*") relating to SAA. I also recall overhearing Mr Ajay Gupta briefing Mr Gigaba about the cancellation of a SAA route between South Africa and Mumbai so that a Gupta airline could deliver the route.
26. At some stage, Mr Gigaba told me that Mr Ajay Gupta wanted him to get rid of Mr Brian Dames ("*Mr Dames*"). Having met Mr Dames, I asked Mr Gigaba why and he said that the Guptas do not like Mr Dames because there are things that Mr Dames was supposed to do but did not do.
27. Our visits to the Gupta residence would usually last about one to one and a half hour from the time that we arrived.

Meetings held at our home*Meeting with the Guptas*

28. During 2013, Mr Ajay Gupta met with Mr. Gigaba at our then official state residence at 266 Auriga Street in Waterkloof, Pretoria. I recall seeing Mr Ajay Gupta at our home at most twice. The meetings took place in an underground room or bunker at our home.
29. Mr Gigaba told me that Mr Ajay Gupta was meeting with him to discuss matters relating to Transnet tenders and the signing of contracts on the one occasion and on the other occasion it concerned an Eskom project that was giving Mr Gigaba 'a headache'.

Meeting with Mr Gigaba's staff

30. Mr Gigaba invited staff from his office at the Department of Home Affairs to our residence prior to a trip to Mumbai and New Delhi, India.
- 30.1. During the last period of Mr Gigaba's tenure as Deputy Minister of Home Affairs, Mr Gigaba complained to me that the Guptas were demanding that he finalise his trip to Mumbai and New Delhi, India.
- 30.2. During or about 2010, I accompanied Mr Gigaba and other government officials on the trip to Mumbai and New Delhi, India. Before the trip, I overheard Mr Gigaba complaining to Mr Ajay Gupta that he could not go on the trip to India because he was still at the Department of Home Affairs; therefore he could not justify a trip to discuss a new flight route between South Africa and India which was a matter that fell under DPE. At a later stage, Mr Gigaba mentioned that he would create an official state visit to India whilst at the Department of Home Affairs so that he could meet the Indian nationals that Mr Ajay Gupta wanted him to meet in relation to the South Africa/Mumbai route.
- 30.3. In India, Mr Gigaba and Mr Msomi attended various meetings. I did not see with whom they met as I was out shopping when they attended the meetings.
- 30.4. Mr Gigaba later told me in 2010 that the Guptas wanted to introduce their own airline to service the Johannesburg/Mumbai flight route and that the Guptas

were demanding that he compel SAA to cancel their Johannesburg/Mumbai route. Mr Gigaba did not support that demand.

PRIOR KNOWLEDGE OF APPOINTMENTS IN STATE OWNED ENTERPRISES

31. Mr Gigaba would often tell me that the Guptas wanted certain individuals to be appointed into senior positions at state owned enterprises.
- 31.1. After one of the 'The New Age Breakfast sessions', Mr Gigaba told me that Mr Brian Molefe ("*Mr Molefe*") was going to be moved from Transnet to Eskom Holdings SOC Limited ("*Eskom*"). I was told this before Mr Molefe was officially appointed to Eskom. He told me that the Guptas wanted Mr Molefe at Eskom and not Mr Brian Dames ("*Mr Dames*").
- 31.2. Mr Gigaba also told me that Mr Siyabonga Gama ("*Mr Gama*") would be appointed the Chief Executive Officer of Transnet before the appointment was made.
- 31.3. Mr Gigaba also told me that he intended to speak to Mr Gama to appoint his sister, Ms Gugu Gigaba, to Transnet. To the best of my knowledge, Ms Gugu Gigaba was appointed and remains in the employ of Transnet.
- 31.4. On many occasions, Mr Gigaba informed me that the Guptas knew and had told him about who would be moved from and appointed to SOE's

TENSIONS RISING

32. As Mr Gigaba's tenure as Minister of the DPE progressed, he often told me that the Guptas were putting pressure on him to take certain decisions with which he did not agree. I recall Mr Gigaba mentioning to me that the Guptas did not like Mr Monwabisi Kalawa, the then SAA Chief Executive Officer, or Mr Dames, the then Eskom Chief Executive Officer. Mr Gigaba enjoyed working with both of them. When I asked Mr Gigaba why he did not stop using the Guptas as his advisors, he told me that he could not. There were several times when Mr Gigaba would get upset and tell me that he did not want to but needed to go meet the Guptas as he needed to 'report back' to them on certain matters. He was also upset that they were making unreasonable demands on him.

33. During early 2014, Mr. Gigaba's relationship with the Guptas began to appear strained. The Guptas wanted Mr Gigaba to get rid of Mr Dames as the Chief Executive Officer of Eskom because Mr Dames was not doing what the Guptas wanted him to do for them at Eskom. However, Mr Gigaba did not agree with the Guptas' instruction. Mr Gigaba then started avoiding phone calls from the Guptas. When Mr Gigaba ignored the phone calls, the Guptas would send Mr Msomi to speak to him and Mr Gigaba would then agree to meet with them. Mr Ajay Gupta would regularly call Mr Gigaba and demand that he attend the Gupta residence to meet certain people. This upset Mr Gigaba because he would have to cancel his planned official appointments in order to do so. Mr Gigaba also told me that Mr Ajay Gupta told him that if he wanted to run the DPE as he wished, he would be moved back to the Department of Home Affairs. I understand that Mr Ajay Gupta would often tell Mr Gigaba that he should remember why he was appointed at the DPE.

Mr Gigaba's relationship with Ms Dudu Myeni ("Ms Myeni")

34. When Mr Gigaba was appointed as the Minister of the DPE, he had a close working relationship with Ms Myeni. Ms Myeni facilitated our honeymoon trip to Mauritius. He would often meet her at the Sheraton Hotel for lunch and thereafter he would go to the Gupta residence.
35. At a later stage, Mr Gigaba informed me that there was some disagreement between him and Ms Myeni about certain decisions pertaining to the direction of SAA, which resulted in tensions between them.
36. Mr Gigaba and Ms Myeni began to disagree on many aspects relating to matters concerning SAA, including the issues regarding the cancellation of the SAA Johannesburg/Mumbai flight route.
37. On Sundays, Mr Gigaba and I would regularly have lunch in Sandton. While driving to return home, I would overhear Mr Gigaba's telephone discussions with Ms Myeni. He would sometimes share the detail of such discussions with me which would include that:

- 37.1. he did not understand why Ms Myeni had been appointed as the Chair of SAA because he did not believe her to be competent for that position;
- 37.2. Ms Myeni would feed information to the former President without telling him about it;
- 37.3. when Mr Gigaba did not want to follow the instructions of Mr Ajay Gupta or Ms Myeni, one or other would phone the former President to complain about him. Ms Myeni would then pass on instructions from President Zuma to Mr Gigaba which would upset him. Mr Gigaba believed that he should have had a direct line of communication to the former President and not receive instructions via Ms Myeni because he did not report to her.
38. Ms Myeni told Mr Gigaba that if he did not do as he was told, he would go back to the Department of Home Affairs.

Mr GIGABA'S RETURN TO THE DEPARTMENT OF HOME AFFAIRS

39. On 26 May 2014, Mr Gigaba was transferred back to the Department of Home Affairs as Minister.
40. Mr Gigaba did not believe that the former President would transfer him back to the Department of Home Affairs because he believed that they shared a very close relationship.
41. Mr Gigaba therefore appeared very shocked and hurt when his transfer was announced after the 2014 elections. The former President told Mr Gigaba, in front of the ANC Top Six leaders, that the reason he was being moved back to Department of Home Affairs concerned the strengthening of border controls. But Mr Gigaba knew that that was not the reason. Mr Gigaba told me this when he came back from his meeting with the President at which he was notified of his redeployment to the Department of Home Affairs. Mr Gigaba did not say anything in response in front of the others who were present at the meeting.

THE GUPTAS' APPLICATIONS FOR SOUTH AFRICAN CITIZENSHIP

42. During Mr Gigaba's term of office as Minister of the Department of Home Affairs, he informed me that he was assisting some of the Gupta family members to obtain citizenship in South Africa. He said that the Guptas were conducting business in South Africa and that they needed their family then living in India to be in South Africa.
43. One day in 2015, Mr Gigaba came home with blank official documents in a brown envelope that he informed me the Guptas needed to sign. I went with him to the Gupta residence and on arrival Mr Ajay Gupta greeted us. Mr Gigaba went with Mr Ajay Gupta into a separate room carrying the same brown envelope. When we left the Gupta residence to go home, Mr Gigaba carried the same brown envelope with him. The next morning, Mr Gigaba called me to ask about the whereabouts of the brown envelope. He asked me to look for the brown envelope at home. Later that same day, he called again to inform me that he had found the brown envelope in the boot of his official car.
44. It is publicly known that Mr Gigaba, during his term as Minister of the Department of Home Affairs, had approved the early naturalisation of members of the Gupta family.

MALUSI GIGABA'S TRANSFER FROM THE DEPARTMENT OF HOME AFFAIRS TO THE DEPARTMENT OF FINANCE

45. On or about 30 March 2017, whilst Mr Gigaba and I were attending a fashion show and gala dinner in Cape Town, he received a telephone call on his cellular phone. He left the venue to take the call. When Mr Gigaba returned, he told me that we needed to leave the function immediately. In the car, he informed me that the call that he had received was from the former President. The former President had informed him that he had decided to reshuffle his Cabinet and that Mr Gigaba would be appointed as the Minister of Finance.
46. This change in Mr Gigaba's portfolio appeared to upset him very much. He informed me that the former President told him that he initially wanted to appoint Mr Molefe as the Minister of Finance but finally decided to appoint him (Mr Gigaba) at the request of the other NEC members.

47. By the time that Mr Gigaba moved to the Department of Finance, his relationship with the Guptas had deteriorated and the visits to the Gupta residence had become infrequent.

GIFTS, CASH AND BENEFITS RECEIVED FROM THE GUPTAS

48. Over the years, Mr Gigaba had received cash and various gifts and benefits, discussed below, from the Guptas. This is apart from the gold jewellery necklace that Mr Ajay Gupta gave to our eldest son on the first occasion that I met him during 2012. I do not know if Mr Gigaba ever declared the jewellery gift to the DPE.

Gifts

The white 3-series BMW motor vehicle ("the BMW")

49. A few months before Mr Gigaba took office as Minister of the DPE, Mr Ajay Gupta gave Mr Gigaba the BMW. Mr Ajay Gupta handed over the BMW to Mr Gigaba, in my presence, at the offices of Sahara Computers in Midrand. I later used the BMW as my private vehicle. The registration of the BMW was eventually transferred into my name from a name unfamiliar to me. Mr Gigaba informed me that he had given the car to one of his friends for repairs to one of the lights, but the car was never returned.

Cash and benefits

Wedding gifts of cash

50. Mr Gigaba and I married on 30 August 2014. I did most of our wedding planning. We invited both the former President and the Guptas but none of them attended. Mr Molefe was invited and did attend.
51. Mr Gigaba informed me that, as a wedding gift, the Guptas gave him a cash donation towards the cost of the wedding in addition to paying for the cost of a honeymoon in Dubai. I do not know how much money the Guptas in fact gave.

52. I estimate that our wedding cost between R4 million to R5 million. I paid all the wedding expenses, including caterers and other suppliers, in cash from the bundles of cash that I received from Mr Gigaba

Cash collected from the Gupta residence

53. Mr Gigaba had two Close Protection Officers ("CPO") who accompanied him in the same vehicle. I knew his lead CPO named Lawrence (I think his surname was 'Mahlalele') ("Lawrence") very well.
54. On several occasions that we attended the Gupta residence, I personally observed Mr Gigaba leaving the adjacent private meeting room, where the meetings were held, to request that his cellular phone be brought to him. He would call one of his CPOs to bring his leather bag, kept in the boot of his official vehicle, to the front door of the residence, where he would collect the leather bag. Mr Gigaba would carry the bag into the private meeting room and, a short while later, he would emerge with the bag to carry it out of the residence for the CPO to place it in the boot of his official vehicle. I recall that Mr Gigaba had two of those leather bags. I attach similar examples of these bags obtained via an Internet search as **Annexures "A" and "B"**.
55. I subsequently learnt that the leather bags contained bundles of cash notes.
- 55.1. There were several occasions when Mr Gigaba and I would go to Sandton City immediately after visiting the Gupta residence. At Sandton City and in my full view, Mr Gigaba would take bundles of cash notes out of the same leather bag that he had brought out of the Gupta residence and which had been placed in the boot of his official vehicle, for handing to Lawrence to pay for his suits purchased at HTK Sartoriale (*"the HTK store"*).
- (a) When Mr Gigaba purchased suits from the HTK store, suits would be kept aside for him from which he would make a selection. He would leave the HTK store with the suits and inform the sales person that one of his protectors would return to pay for it.
- (b) Mr Gigaba sometimes shopped at the Fabianni store in Sandton City when I was with him. He paid in cash for clothing that he bought there.

- 55.2. On several occasions, I had also personally observed Mr Gigaba transferring money from his brown and black leather bags into his brown leather personal carry bag. I attach a similar example of the personal carry bags obtained via an Internet search as **Annexure "C"** and **"D"**. He would later use the cash from his personal carry bag to pay for our meals at restaurants.
- 55.3. Apart from a Louis Vuitton handbag bought in Sandton City which Mr Gigaba paid in cash, he did not typically buy gifts for me with the cash collected at the Gupta residence. He told me to use the credit card, up to no more than a R100,000 monthly credit limit, that he gave to me years before. This card was linked to his money market bank account. He did, however give me cash of between R100,000 to R150,000 for shopping when I holidayed overseas.
56. About one week after the Gupta wedding held at Sun City during 2013, Mr Gigaba and I visited the Gupta residence. On our return home, the CPOs took the bags from the boot of his official vehicle and placed them in the lounge, as usual, including the leather sports bag (**Annexure A**) that Mr Gigaba had brought out of the Gupta residence during our visit there. Mr Gigaba took the sports bag to his study and I went to check on our children. On learning that our second child was very ill, I rushed to Mr Gigaba in the study to tell him that we needed to take our child to hospital immediately. On opening the door of the study without knocking, I found Mr Gigaba unpacking bundles of cash, in denominations of R100 and R200 notes, and placing them in his safe. I was shocked to see all the money and asked him what the money was for. He told me that Mr Ajay Gupta gave the money to him and that it was to assist the ANC in its upcoming 2014 Election Campaign. I knew that Mr Gigaba was involved in the planning and coordination of ANC election activities, being deployed at least once to Mpumalanga, and that he was involved in the purchase of campaign T-shirts and posters.

Ms Nozipho Gigaba: Payment of her bad debt and employment at Sahara Computers

57. During 2013, Mr Gigaba's father called us to a meeting at their family home in Mandeni in KwaZulu Natal. Following a private discussion that Mr Gigaba had held with his father, he told me that his father had asked him to assist his sister, Ms Nozipho Gigaba, to settle a R850,000 bad debt in her name. Mr Gigaba told me that when we returned home, he would ask Mr Ajay Gupta for the money.

58. At a later stage, Mr Gigaba told me that Mr Ajay Gupta had agreed to give him the R850,000 and that Mr Mahlangu would collect the initial amount of R425,000 for payment towards the debt. He also told me that Mr Mahlangu would assist the family with the process to have his sister's name removed from an adverse listing by credit bureaus. I was informed that the name was removed from credit listing.
59. The Guptas had also employed Ms Nozipho Gigaba in a marketing position at Sahara Computers. As far as I know, she did not work there for very long before leaving their employ.

Cash for renovations to Mr Gigaba's home on the family plot

60. During Mr Gigaba's tenure as Minister of the DPE, he told me that he wanted to extend his two bedroom flat situated in front of the main house on his family's plot in Mandeni, KwaZulu Natal. A bigger house would better accommodate our family and manage family politics.
61. Mr Gigaba contracted his brother-in-law, (*"the builder"*), to do the building renovations. I learnt that Mr Ajay Gupta funded the building renovation when one day Mr Gigaba told me that he was going to get the money from Mr Ajay Gupta to pay the builder. He later called that same day to tell me that he was flying to KwaZulu Natal immediately to pay the builder. I do not know the cost of the building renovations but the completed structure, which took a few months to build, consisted of three bedrooms, two bathrooms and a lounge area.
62. I was present on at least three occasions when Mr Gigaba paid the builder in bundles of cash for the tiling and plumbing. I do not know how much money was given.
63. Despite assurances that Mr Gigaba gave to me, I do not know if he officially declared any of the gifts, cash or benefits to the ANC and to the relevant government authorities.

THE GUPTA MONEY COUNTER

64. In one of the visits to the Gupta residence, when Mr Gigaba was still Minister of DPE, we attended a function at the Gupta residence, Mr Ajay Gupta took us on a tour of one of the newly renovated houses in the Gupta compound. We were part of a small group of people who were unknown to me. He showed us a room that had been converted into a small cinema and in another area, I saw a sauna.
65. At one area, I saw a device which looked like a small version of an Automated Teller Machine ("ATM"). Mr Ajay Gupta demonstrated how it operated by punching an amount on the keyboard of the machine, which was R10,000 if I recall correctly, and it dispensed the cash notes in denominations of R100 and R200.

CONFISCATING MY DEVICES TO DESTROY POSSIBLE EVIDENCE

66. During February 2020, I asked Mr Gigaba for a divorce. Without expanding on the details surrounding the personal circumstances of my request for a divorce, I bring the following to the attention of the Commission:
- 66.1. Mr Gigaba asked me to delay the divorce proceedings until after he appears before the Commission.
- 66.2. Around June 2020, Mr Gigaba asked me for all of my electronic devices because he had brought someone to our home, whom he introduced as an IT expert, to delete certain information from all of my phones, iPad and laptop ("my devices"). I refused to hand over my devices. This made him visibly upset. On querying what information needed to be deleted, Mr Gigaba stated that certain pictures and information on my gadgets could be used to prove that he had visited the Guptas regularly which would contradict his answers in Parliament to the questions put to him by the Economic Freedom Fighters Members of Parliament. He said that he did not want the same to happen to him as had happened to Mr Molefe during the Public Protector investigation - which had used his cellphone records to prove that he had visited the Gupta residence. He was also particularly concerned to delete any photographs that I had taken on our trip to Mumbai and New Delhi in India, photographs of our honeymoon

trips to Mauritius and Dubai and my private trips to Dubai. I did not hand over my devices.

- 66.3. Mr Gigaba also asked me not to speak to the Commission nor the law enforcement agencies about Gupta visits, the cash and the gifts.
- 66.4. On Thursday, 18 June 2020, a domestic incident occurred at our home. On or about Wednesday, 24 June 2020, Mr Gigaba called me into the living area where I met Captain Mavuso and Sergeant Ntabambi of the HAWKS. They demanded my two iPhones, my old Huawei phone, my iPad and my MacBook and knew exactly where to locate each gadget in various parts of our home. They refused my right to legal representation. They demanded all the usernames and passwords for the devices, all details of my email and social media accounts, making me test each one in their presence. When the confiscated gadgets were later returned to me, all photographs and emails relating to my trips overseas, visits with the Guptas, and other information were deleted from the devices.
- 66.5. The events of 18 June 2020 and subsequent are contained in court papers, under the case Gigaba v Minister of Police and Others (43469/2020) whose judgment appears under [2021] ZAGPPHC 55 (11 February 2021). The papers can be made available if required.

LOSS OF PERSONAL PASSPORTS

66. On my return from Durban on 1 March 2021, I discovered that mine and my children's personal passports are missing, and not where I had left them. I found only an empty passport cover for my passport. I also discovered that copies of my passport that I had made earlier and kept them in my drawer were also missing.
67. I confronted Mr Gigaba about the whereabouts of my children's passports and mine later that day, and he denied having seen them. I believe that the theft of my children's passport and mine was to conceal evidence of a trip that we took to Mauritius.

N. Ngcaba

DEPONENT

I certify that the deponent who acknowledges that she knows and understands the contents of this affidavit; that it is the truth to the best of her knowledge and belief and that she has no objection to taking the prescribed oath and regards same as binding on her conscience; and the administration of the oath complies with the Regulations published under Government Notice R1258 in Government Gazette 3619 of 21 July 1972, as amended. This affidavit is signed and sworn to before me at SANDTON on this 06th day of **MARCH 2021**.

[Signature]

COMMISSIONER OF OATHS

EX OFFICIO:

FULL NAMES:

GUGULETHU OSCAR MADLANGA

PHYSICAL ADDRESS

PRACTISING ATTORNEY

COMMISSIONER OF OATHS

MADLANGA & PARTNERS INC

ATTORNEYS

THE OFFICES OF HYDE PARK

DESIGNATION, 1ST FLOOR, STROUTHOS PLACE

HYDE PARK, JOHANNESBURG.

P.O. BOX 522118, SAXONWOLD, 2132

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

AFFIDAVIT

I, the undersigned,

NOMACHULE GIGABA (formerly: MNGOMA)

do hereby state under oath that:

1. I am an adult female businessperson residing in Pretoria, Gauteng. I married Mr Knowledge Malusi Gigaba (Mr. Gigaba) on 30 August 2014. Our marriage relationship subsists but we are in the process of divorcing each other.
2. All the facts stated in this affidavit are, unless the context indicates otherwise, within my personal knowledge. They are to the best of my knowledge and belief both true and correct.
3. I freely and voluntarily give this affidavit to the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State ("*the Commission*") regarding threats that I received relating to my engagement with the Commission.
4. Where I make submissions of a legal nature, I do so on the advice of my legal representatives, whose advice I accept as correct.

THREATS RECEIVED

5. On 17 December 2020, I was interviewed by eNCA about my relationship with Mr Gigaba.

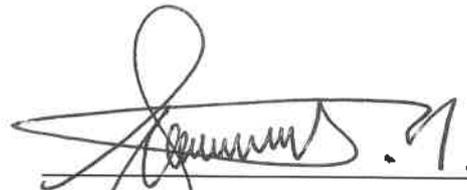
6. On 21 and 22 January 2021, I was interviewed by members of the Commission.
7. I have also been advised and assisted in this matter by my counsel.
8. Following my interview with the Commission, I started receiving various telephone calls, with the number identity hidden ("*No Caller ID telephone calls*"), from people purporting to be Mr. Gigaba's friends and comrades. The contents of all these calls are summarized in general terms in this paragraph. I do not detail the contents of each call separately, but rather together, the callers, unknown to me, warned me to not speak to the Commission. They said that I have been sent by a camp that supports the current President Cyril Ramaphosa ("*the President*") to say the things that I say. They accused me of being financially supported by a certain 'Mr Rupert' who is the President's backer. They also mentioned that I will disturb their plans that they are engaged in to ensure that Mr Gigaba is positioned to be the next President of the African National Congress in 2024; if I continue to speak out, I will damage their plans and my life would be in danger. The callers also informed me that I am being followed and that they know where I have been.
9. On 1 February 2021, I provided the Commission with screenshots of my cell phone showing a list of twenty-one No Caller ID telephone calls that I did not answer. A copy of the screenshot is attached as **Annexure NG1**.
10. I also received physical intimidation and threats on 27 February 2021 whilst booked in at The Pearls Hotel in Durban. I was approached by a lady that was unknown to me whilst having breakfast in the presence of my children. The lady verbally attacked me saying I should not cooperate with the State Capture Commission by providing an affidavit. If I do provide the affidavit, then my life would be in danger. The lady also told me that she has called me using a No-Caller ID number. She told me that they are following me and they know all my movements. I then sent the children up to the hotel room, and confronted the lady. This confrontation attracted the attention of the hotel security who came and intervened, and escorted the lady out of the hotel. I felt that my life was in danger at the hotel and contemplated checking out of that hotel. However, management arranged to book me under a pseudo name. Later that evening I again received thirty calls from a No-Caller ID telephone number that I did not answer. A copy of the screenshots showing these is attached as **Annexure NG2**. I checked out of the hotel on 1 March 2021 and flew back to Gauteng.

11. Notwithstanding these threats, I am willing to testify before the Commission in an open hearing.



DEPONENT

I certify that the deponent who acknowledges that she knows and understands the contents of this affidavit; that it is the truth to the best of her knowledge and belief and that she has no objection to taking the prescribed oath and regards same as binding on her conscience; and the administration of the oath complies with the Regulations published under Government Notice R1258 in Government Gazette 3619 of 21 July 1972, as amended. This affidavit is signed and sworn to before me at SANDTON on this 06th day of **MARCH 2021**.



COMMISSIONER OF OATHS
EX OFFICIO:
FULL NAMES:

GUGULETHU OSCAR MADLANGA
PRACTISING ATTORNEY
COMMISSIONER OF OATHS
MADLANGA & PARTNERS INC
ATTORNEYS
THE OFFICES OF HYDE PARK
1ST FLOOR, BLOCK A, STROUTHOS PLACE
HYDE PARK, JOHANNESBURG.
P.O. BOX 522118, SAXONWOLD, 2132

PHYSICAL ADDRESS:

DESIGNATION:

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Favourites



Recent



Contacts



Keypad



Voicemail

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No Caller ID
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unknown 19:29 ⓘ

No Caller ID
unknown 19:25 ⓘ

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

AFFIDAVIT

I, the undersigned,

SIYABONGA MAHLANGU

do hereby make oath and state that:

1. I am an adult non-practising attorney and former Special Advisor to the former Minister of Public Enterprises, Mr Malusi Gigaba. I served as Minister Gigaba's Special Advisor for the period 1 December 2010 to 24 May 2014.
2. The facts contained in this affidavit are, save where otherwise indicated by the context, within my personal knowledge and are, to the best of my knowledge and belief, true and correct.

THE PURPOSE OF THIS AFFIDAVIT

3. On 12 March 2021, I received a notice in terms of Rule 3.3 of the Rules of the Judicial Commission of Inquiry Into State Capture (the "Rule 3.3 Notice") notifying me that the Commission intends to present the evidence of Mrs Nomachule Gigaba at some future date.
4. Attached to the Rule 3.3 Notice were paragraphs extracted from Mrs Gigaba's affidavit, which paragraph 2 of the Rule 3.3 Notice informed me may implicate me in certain conduct – the conduct described in paragraphs 2.1 to 2.2 of the Rule 3.3 Notice.

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5. Paragraph 2 of the Rule 3.3 Notice summarises the allegations that relate to me made by Mrs Gigaba in her affidavit. In summary, she alleges that:

5.1.1 frequently attended meetings with Minister Gigaba and Messrs Thami Msomi and Ajay Gupta at the Gupta family residence in her presence;

5.2. The meetings in question involved confidential matters of state, including the affairs of the Department of Public Enterprises ("DPE"), Transnet, and South African Airways;

5.3. Minister Gigaba informed her that I was:

5.3.1. to collect a sum of R425 000 on his behalf from Mr Ajay Gupta; and

5.3.2. to assist the Minister's sister to have her name removed from the Credit Bureau.

6. In this affidavit, I respond to Mrs Gigaba's affidavit as it relates to me.

AD PARAGRAPHS 22 to 25

7. I deny that:

7.1.1 visited the Gupta residence frequently with Minister Gigaba and that Mrs Gigaba frequently met me at the Gupta residence;

7.2. I was ever invited or required to attend a meeting with Minister Gigaba and Ajay Gupta. Nor did I ever hold a meeting, on my own, with Ajay Gupta; and

7.3. I ever held any meeting with Minister Gigaba, Mr Msomi, and Mr Ajay Gupta.

7.4. I have ever discussed matters of Transnet, Eskom or SAA in any meeting with the Minister, Mr Msomi and Ajay Gupta.

Handwritten signature and initials, possibly 'JM' with a flourish below it.

8. In my affidavit to the Commission dated 9 September 2019, I set out my interactions with members of the Gupta family. Those include my attendances at their home in Saxonwold and the kind of issues raised with me by Mr Rajesh Gupta for discussion, the only member of the Gupta family with whom I had meetings with at the Gupta residence.
9. The meetings I referred to in my affidavit of 9 September 2019 are the only meetings I had at the Gupta residence, all of which were with Rajesh Gupta (and not Ajay Gupta as alleged by Mrs Gigaba). To the best of my recollection, on none of these occasions did I encounter Mrs Gigaba. I have no recollection of ever seeing her at the Gupta residence.
10. I never attended a meeting with Minister Gigaba at the Gupta residence. I recall only one instance when I met Minister Gigaba at the Gupta residence. This was by happenstance. I was leaving the residence after a meeting with Mr Rajesh Gupta and Minister Gigaba was arriving. I have no knowledge whether Mrs Gigaba was with the Minister, but I did not see her.

AD PARAGRAPH 58

11. The relationship between me and Minister Gigaba was professional in nature. On the few occasions that he sought legal advice from me on private matters, I would give him informal advice, and suggest that he consult a practising attorney for fuller legal advice. Apart from this, I would have no further involvement with his private matters
12. I was never required by Minister Gigaba to resolve a Credit Bureau "black-listing" for his sister, as alleged by Mrs Gigaba. At some stage, I do not recall when, Minister Gigaba requested me to advise his sister about the legal challenges that she faced as a result of the closure of her optometry practice. The Minister did not mention or ask me to deal with any issue of her "black listing". I had a discussion with Minister Gigaba's sister in which I explained to her the legal options available to her to resolve her challenges – including procuring the

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services of an attorney to assist her with her matter. That was the extent of my involvement.

13. I have no knowledge of what Minister Gigaba told Mrs Gigaba that I would do for him or for his sister. Notwithstanding that, I deny that the Minister requested me to collect R425 000 or any amount at all from Mr Gupta as alleged by Mrs Gigaba. I did not collect any monies from Mr Gupta on behalf of Minister Gigaba.

14. I have no idea why Minister Gigaba would have informed Mrs Gigaba, if he did, that I would resolve his sister's "black-listing" and that I would collect money on his behalf from Ajay Gupta for that purpose. I had no dealings whatsoever with Ajay Gupta.

CONCLUSION

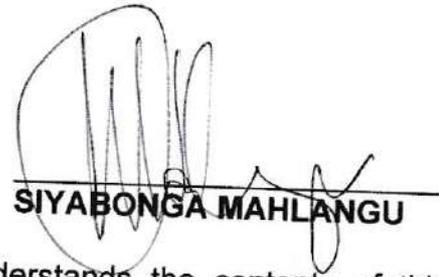
15. The allegations of Mrs Gigaba relating to me are false.

16. I did not assist Minister Gigaba's sister to resolve the issue of her "black-listing". I gave her informal legal advice and advised her to procure the services of a practising attorney to assist her.

17. It is false that I was required by Minister Gigaba to collect monies from Ajay Gupta on his behalf for any purpose.

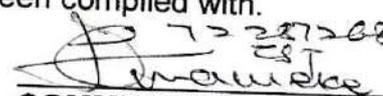
18. I did not hold any meetings with Ajay Gupta or collect any monies from him on behalf of Minister Gigaba.





SIYABONGA MAHLANGU

I hereby certify 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 Rosebank on this the 26th day of **MARCH** 2021, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended by R1648 of 19 August 1977, and as further amended by R1428 of 11 July 1989, having been complied with.

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COMMISSIONER OF OATHS
 Full names: G. M. M. M. M.
 Address: 15 Sturpee Avenue
 Capacity: Rosebank SAPS
Constable

SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICE CENTRE
2021-03-26
CSC ROSEBANK
SUID-AFRIKAANSE POLISIEDIENS

State capture

Commission

Affidavit

I, Thamsanqa Justus Msomi, with an ID no. 7110275599082 wish to state the following under oath:

1. As state in my previous affidavit/s, I have been to the Gupta home more than once. In all the visits that I undertook, I was never in the company of any person including Ms Nomachule Mngoma. I have never held a meeting with the Mr Atul/ Toney Gupta in the presence of the former Minister nor in the presence of Mr Siyabonga Mahlangu. Accordingly, it is entirely untrue that at certain occasions during her visits, she would find me there.
2. I only got to know about Ms Nomachule Mngoma after 2010 not before then. Therefore, it is not true that I met her in 2009. Furthermore, in 2009, I was working in the office of the Deputy Minister of Home Affairs as Head of office and not as an Advisor nor Chief of Staff.
3. Throughout my visits to this family, I have never met Mr Ajay Gupta and I don't even know the sound of his voice. The only person that I held meetings with was Mr Toney or Atul Gupta. I know how Mr Ajay Gupta looks like because his picture has been all over the media. Otherwise I wouldn't know how he looks like. Therefore, it is not true that she (Ms Mngoma) saw me joining meetings with Mr Ajay Gupta.
4. I was never a member of the NEC of the ANC nor a member of the Cabinet so I wouldn't be able to partake in meetings where in matters related to the two structures were being discussed. Accordingly, it is untrue that I partook in such meetings.
5. Never even on a single occasion had I facilitated a phone call between the Gupta family and the former Minister Gigaba nor arranged a meeting between Guptas and former Minister Gigaba.

I hereby wish to declare and confirm that the above statement is truthful.

Deponent's name and surname

THAMBAWQA JUSTUS MSONI

Deponent's signature

[Signature]

Commissioner of Oaths signature

[Signature] T055526-1 Det
S.M. Mngomezulu

Commissioner of Oaths stamp and date



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

SUPPLEMENTARY / CLARIFICATORY AFFIDAVIT

I, the undersigned,

NOMACHULE GIGABA (born MNGOMA)

do hereby state under oath that:

1. The allegations contained in this affidavit are true and correct. They are also within my personal knowledge and belief, except where it is clear from the context. Where I make allegations of a legal nature, I do so on the advice of my legal representatives which I accept as correct.
2. Having held consultations with the Evidence Leaders and further and/or additional consultations with my legal team prior to my appearance at the Commission scheduled for 26 April 2021, it became necessary that I file a supplementary affidavit for the following reasons which I must highlight are not exhaustive:



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- 2.1 to clarify various aspects of my affidavit, which has previously been served before this Commission and on which the Commission led me on 26 April 2021;
- 2.2 to highlight that when I deposed to the first affidavit, I was not given sufficient time to go through the affidavit before signing it. The affidavit was signed in the presence of my previous Counsel who, for security reasons, advised that I sign the affidavit immediately and that for security reasons, we should not keep a copy thereof. The Commission had dropped off a hard copy with my Counsel after they informed him that they could not email it to us;
- 2.3 to provide context in so far as is necessary to distinguish between the information contained in the affidavit allegedly being common cause or public knowledge, which was not to my personal knowledge but that which was instead provided by the Commission through its investigators;
- 2.4 to raise concern with the Commission's decision to change Evidence leaders, when I had at all times prepared and consulted with Adv Paul Pretorius SC with the understanding that he would be leading my evidence and substituting him with Adv Anton Myburgh SC who had, seemingly through no fault of his own, clearly not been given a proper hand over report on our consultations, resulting in having to rehash the consultations I had had with Pretorius SC. The result of this was that, the concerns I had originally raised with Pretorius SC were not known to Myburgh SC to my detriment. Even when similar concerns were



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raised with Myburgh SC they were still not dealt with, hence my continued concern with some parts of the affidavit;

2.5 more specifically, the very fact that the affidavit contained information that I had no independent knowledge of and as a result created the discomfort that I had addressed with Pretorius SC. This situation added to the failure to make the necessary corrections to my affidavit, some of which were material;

2.6 the issue of my security concerns had been furnished to the Commission through the Evidence leaders who had undertaken to ensure that I would be provided with security. However, and despite numerous promises, nothing had been done by the Commission in this regard, which indicated total disregard to my safety concerns duly raised. Following my appearance before the Commission on 26 April 2021, the Commission, through my attorney, inquired if I still needed security to be provided. I have advised my attorney that I no longer need the security as I have already appeared before the Commission;

2.7 my affidavit had been leaked to the media and given to Ajay Gupta without my knowledge, permission or the commission informing me or my Counsel. These developments further exacerbated the situation; and

2.8 the fact that a narrative had been created by the Commission that I had in fact approached the Commission to give evidence when that was in fact not true.



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3. I attach hereto, the letter that I caused my attorneys of record to deliver to the Commission highlighting the concerns that I have alluded to above as annexure "NG1".
4. In submitting this affidavit, I should not be understood to waive any of my legal rights, which are hereby expressly reserved. I confirm that some of the concerns expressed therein were also raised by me during my oral testimony and partly addressed by the Chairperson.
5. Insofar as my first affidavit filed with the Commission is concerned, I wish to clarify the following paragraphs as contained therein:

AD Paragraph 6

5.1 Dates are set out when Mr Malusi Gigaba held various positions in Cabinet. These dates are not within my independent and/or personal knowledge or recollection. They were, however, inserted from the information provided by the Commission through its Investigators. Consequently, I cannot vouch for the veracity thereof;

AD Paragraph 10

5.2 The specific position of Ms Gugu Gigaba, who is employed at Transnet is provided. This information was not within my personal knowledge and as a result I cannot vouch for its veracity. I have been informed, however, by Adv September that the information has been the subject of testimony before this Commission;

AD Paragraphs 19 & 20



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5.3 An impression has been created from the reading of these two paragraphs that I went to the Waterkloof Airport twice – a few days before the wedding *and* on the date of the wedding. The correct sequence is that I did not go to Waterkloof again on the day of the wedding, but had been there only once, a day or two before the wedding;

AD Paragraph 30.2

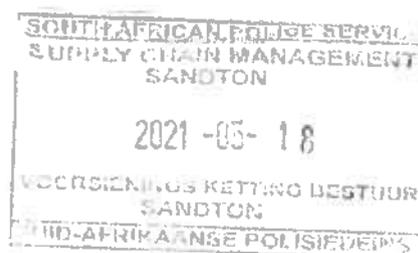
5.4 During my consultation with the Evidence Leaders, I could not vouch for the accuracy of the date in the absence of my passport as far as the India trip was concerned. It has since been brought to my attention that according to Mr Gigaba this trip – which is common cause – took place in 2015, which date I cannot dispute. I travelled with Mr Gigaba to India only on one occasion.

AD Paragraph 39

5.5 The date reflected herein was not within my independent and personal knowledge, as a result I cannot vouch for the veracity thereof. This date was provided by the commission through its investigators.

AD Paragraph 44

5.6 The information contained in this paragraph was not within my independent and personal knowledge, as a result I cannot vouch for the veracity thereof. This information was provided by the commission through its investigators.



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AD Paragraph 55.2

- 5.1 Having read this paragraph, it is clear that the information I provided was not adequately and/or properly captured to the effect that, I had indeed seen the bag being carried out of the Gupta residence several times. But I had only seen Mr Gigaba transfer cash from the big bag to his carry bag only once.
6. Having stated the above corrections, I now turn to deal with the application by Mr Gigaba that was also heard on 26 April 2021.
7. The application was for an order that the affidavit filed by me before the Commission be found to be inadmissible, alternatively that my evidence be heard in camera and finally that Mr Gigaba be granted leave to cross examine me immediately after I had completed leading my evidence.
8. The submissions and/or suggestions made by Mr Solomons SC on behalf of Mr Gigaba in his address to the Commission were that I cannot be a reliable witness as I am an unhappy and/or bitter spouse going through a divorce, and that as a result my evidence will only serve my bitter purpose to seek to "get" Mr Gigaba.
9. This narrative and/or suggestion cannot be further from the truth. I wish to demonstrate this point by providing the chronology of events which this commission is or may be unaware of as follows:
- 9.1 During or about the first quarter of 2020, I approached Mr Gigaba and asked him for a divorce for reasons that are not relevant to this Commission;



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- 9.2 In his response, Mr Gigaba requested and begged that I should only consider the institution of divorce proceedings after the completion of his evidence in this Commission. I agreed to this request;
- 9.3 In or about June 2020, Mr Gigaba then requested me to provide and hand over my cell phones and iPad for purposes of deleting certain information contained therein to get rid of certain information which might contradict his false testimony at this Commission. I refused to hand over my gadgets;

The arrest by the Hawks :

- 9.4 This arrest came soon after I had specifically refused to hand over my gadgets to Mr Gigaba. More specifically, I make the point that had I done so, I would not have been arrested by the Hawks, who immediately and unlawfully arrested me, confiscated my gadgets and deleted specific information from my gadgets. I reiterate that the deleted information specifically related to the events which are of keen interest to his Commission. This is definitely no coincidence;
- 9.5 Following from this, in or about August 2020, I learned from newspapers, the announcement of the divorce proceedings being instituted by Mr Gigaba. The summons was only served on me in September 2020;
- 9.6 Only on 17 December 2020, did I conduct a television interview with eNCA, after which I was immediately contacted by the Commission on 18 December 2020.



9.7 In or about January 2021, discussions on settlement ensued between me and Mr Gigaba, as is normal in divorce matters and with the principal aim of avoiding a long and protracted process of divorce;

9.8 This is when the allegations of supposed extortion started flying around. I must indicate that I am totally astonished at the utter suggestion that I would seek to blackmail or extort Mr Gigaba into any form of settlement in respect of the divorce. As a matter of fact, I remain shocked as to what it is I would be seeking to achieve by such conduct. I say this for the following reasons:

9.8.1 the House we live in is a rented house;

9.8.2 we are married out of communicate of property;

9.8.3 the other house that Mr Gigaba owns, there is still a huge amount owed to the bank in respect of the bond;

9.8.4 the entire furniture in the house that we live in belongs to me;

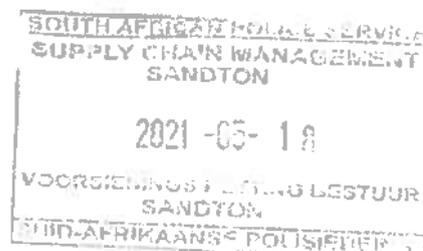
9.8.5 I am in no state or have any intention to fight with Mr Gigaba as we have two minor children together, whom I had even proposed to leave with Mr Gigaba to avoid any further confrontation and dispute related to our divorce and so as to expedite it; and

9.8.6 As confirmed in a letter from my attorneys to the Commission, there are no ongoing settlement discussions between the



parties. It is therefore not clear what I stand to gain by assisting the Commission.

- 9.9 I ought to highlight that the proposal I was making to Mr Gigaba was that we should agree on the issues so that we can both move on with our respective lives. Indeed, the settlement discussions, which were even escalated to our respective attorneys, yielded no fruits and were accordingly abandoned;
- 9.10 On 11 February 2021, the High Court, in the matter pertaining to my unlawful arrest by the Hawks, handed down judgement in my favour as per Sardiwalla J's judgment, in which the court confirmed that Mr Gigaba was a complainant in my criminal trial and the cause of my arrest by the Hawks on fabricated and false allegations of conspiracy to murder him, which have never been pursued;
- 9.11 On 06 March 2021, I filed an affidavit with the Commission which forms the basis of this supplementary affidavit; and
- 9.12 On 26 March 2021, the NPA withdrew criminal charges against me, which were related to my unlawful and malicious arrest at the instance of Mr Gigaba and his friends.
10. I lay out the above chronology to demonstrate to this Commission that the suggestion that I was a bitter spouse attempting to get to Mr Gigaba through this Commission is not only malicious in the very least but is misleading on the real issues before this Commission.

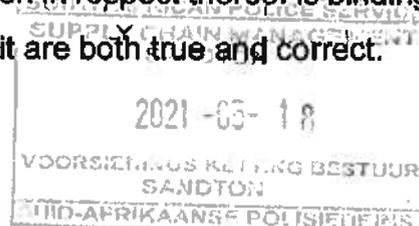


11. The suggestion by Mr Gigaba that his application was made so that he can shield our children from our squabbles before courts flies on the face of truth. After all, is it not Mr Gigaba who was the complainant in the criminal case against me? Where, one would ask, was the consideration at the time to shield our minor children from the numerous appearances I was forced to make at the Magistrates Court before the withdrawal of the charges, which appearances were solely occasioned by him?
12. I need to clarify that, when I originally sought divorce from Mr Gigaba, it was never out of bitterness, hence my agreement to not proceed with same at the time, after he had requested me not to. To suggest this now, conveniently so, is in my respectful view quite absurd in the very least.
13. As repeatedly explained in the media and in my testimony, my sole reason for assisting the Commission is the performance of my civic duties as a citizen of South Africa, who is willing to provide any information to which I may be privy and which can rid our society of the cancer of corruption would like my children to grow up in a corrupt-free society I bear no grudges against anyone and I have long forgiven those who wronged me. They will be judged not by me but by God.



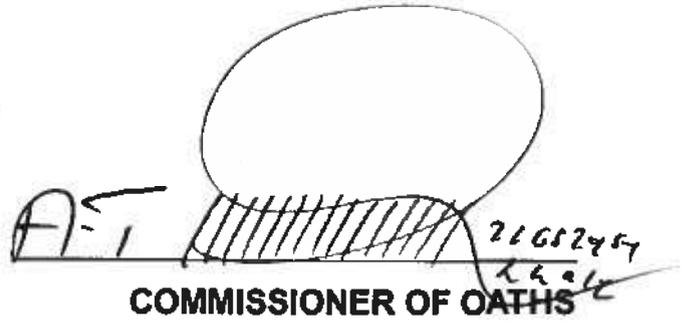
DEPONENT

THUS SIGNED AND SWORN TO before me at **JOHANNESBURG** on this the *18th* day of **May 2021**, the deponent having acknowledged that she knows and understands the contents of this affidavit, that she has no objection to taking the prescribed oath, that the oath which she has taken in respect thereof is binding on her conscience, and that the contents of this affidavit are both true and correct.



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COMMISSIONER OF OATHS

SOUTH AFRICAN POLICE SERVICE
SUPPLY CHAIN MANAGEMENT
SANDTON
2021-05-18
VOORSIENING KLEIN OESSTUUR
SANDTON
SUID-AFRIKAANSE POLISDIENST

N.g



www.rmtattorneys.africa 171 Katherine Street, Liberty Life Office Park,
Building 2, Second Floor, Strathavon, Sandton, 2196
PO Box 621, Johannesburg, 2000 | Docex 346, Randburg
T +27 (0)11 444 3008 | F +27 (0)11 444 3017

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Our Ref: G. MAKHATHINI/MAT13992
Your Ref:
Date: 26 April 2021

HONOURABLE DEPUTY CHIEF JUSTICE RAYMOND ZONDO
CHAIRPERSON
JUDICIAL COMMISSION OF INQUIRY INTO
ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD
IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

CONFIDENTIAL

Per Email: secretary@commissionsc.org.za

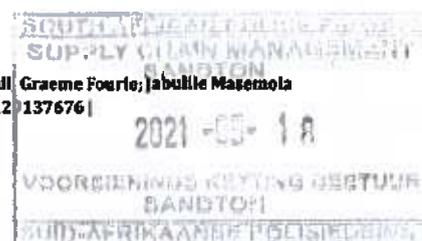
CC: AntonM@commissions.org.za

The Honourable DCJ Zondo

RE: MS N MNGOMA' s (GIGABA) EVIDENCE / M GIGABA' s APPLICATION

1. We refer to the above matter and in particular, to this afternoon's proceedings scheduled for the hearing of Mr Gigaba's application as well as the leading of Ms Mngoma's (our client) evidence.
2. An impression has been created, it appears to us, wrongly that our client is reluctant or refuses to co-operate with the Commission. We must clarify at the outset that our client does not wish to act in a manner which undermines the authority of the Commission or the Chairperson. She is a law-abiding citizen who had wished to play her civic duty in assisting the Commission, to the best of her ability. She has acted in this spirit throughout her engagements with the Commission.

Directors: Melatong Ramushu; Gwaili Makhathini | Associates: Lisha Qnall; Graeme Fourie; Jabulile Masemola
Reg. No.: 1993/002930/21 | VAT No.: 412137676 |

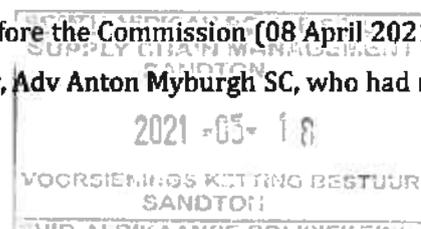


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AT



3. Our client also has never had direct encounter with the Chairperson of the Commission, a person she holds in very high regard. This is why she has decided that this letter should be addressed directly for the attention of the Chairperson as it is not clear whether or not he is fully aware of the issues raised herein.
4. Our client has taken this step of communicating directly with the Chairperson because she believes that there is animosity exhibited by the evidence leading team towards her, which has led to the unnecessary and inexplicable issuing of summons. Our client is not an implicated person, yet the summons is issued to compel her testimony as though she is an implicated person. More importantly, she is not a compellable witness.
5. In this letter we will set our client's concerns, which we understand the Chairperson has called for. As the Commission is aware, our client was previously scheduled to give her evidence on the 9 April 2021 and this was subsequently postponed, at the Commission's instance, to the 13 April 2021.
6. However, on the 13 April, we presented the Commission with a letter setting that our client, due to certain concerns that she has, would be withdrawing her participation in the Commission. This position was also reiterated when our Ms Makhathini appeared before the Commission on the afternoon of 13 April 2021. During the said appearance, the Chairperson asked for the details of the concerns that our client had and unfortunately, we had, at the time, not had an opportunity to consult with our client for purposes of eliciting the details of the concerns.
7. Following the proceedings of the 13 April 2021 as set out hereinabove, our client was served with a Summons in terms of Section 3(2) of the Commissions Act 8 of 1947 (read with Rules of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State, published in Government Gazette No. 41774 on 16 July 2018) to appear as a witness to give evidence before the Commission on the 26 April 2021 at 16h00. The said summons was served at our client's place of residence on the 16 April 2021, during her temporary absence. Our client received the summons upon her return on Monday the 19 April 2021 and forwarded same to us on the 21 April 2021.
8. We have now had an opportunity to consult with our client and she has reiterated that she has always given the Commission her full cooperation and respect. However, the concerns outlined hereinbelow, and which the Chairperson requested that our client should spell out in detail, have rendered it difficult for her to continue assisting the Commission. The concerns raised by our client, some of which have been brought to the attention of the Commission in the past, are hereby listed below in compliance with the directive of the Chairperson:

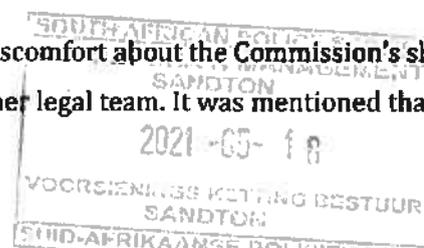
- 8.1. On the eve of her initially scheduled appearance before the Commission (08 April 2021) she had to consult with the Commission's new evidence leader, Adv Anton Myburgh SC, who had replaced Adv



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Paul Pretorius SC. The change in counsel was disruptive as our client's previous counsel had specifically discussed with Adv Pretorius that he would lead her evidence. It also became clear during the consultation that Adv Myburgh had probably not been favoured with a proper handover report of the issues and concerns already raised with Adv Pretorius.

- 8.2. There had been a few consultations between our client and Adv. Pretorius previously and significant progress had been made in preparing our client's evidence. This abrupt replacement of the evidence leader meant that our client had to go through the same process all over again. It is traumatic for our client to be forced to repeat the events of her testimony since her marriage is in a state of collapse and there are minor children involved. The Commission shows no consideration and empathy to her position when it changes its legal team for its own undisclosed reasons.
- 8.3. During the aforesaid consultation on the 08 April 2021, our client pointed out to the evidence leaders that there were certain facts reflected in the affidavit that were not in her personal knowledge, which needed to be discussed with her and clarified. At the time of the issuing of the summons, these had not been addressed.
- 8.4. When these issues were raised with the evidence leading team, the tone of Adv. September was accusatory, suggesting that it was our client's fault that these errors were not picked up before the affidavit was signed. Given her state of anxiety about the evidence which is against her current husband and gives details of her marriage and children, it is grossly unfair for the Commission evidence leaders to seek to shift blame to our client. Instead, as previously suggested by Adv Myburgh and agreed to by our client, these aspects could have been clarified in a supplementary affidavit.
- 8.5. Serious security concerns pertaining to our client's safety had been brought to the attention of the Commission and an undertaking was made that the Commission would look into this aspect. Our client has not heard from the Commission in this regard, nor has she been offered any form of security or the courtesy of an explanation for the failure to do so.
- 8.6. Our client's first affidavit was leaked to the media and she brought her dissatisfaction with this to the attention of the Commission. This aspect exacerbated our client's security concerns. The Commission undertook that it would investigate the source of the leak and revert to our client. No update has to date been furnished by the Commission to our client around this issue.
- 8.7. Our client also highlighted to the Commission her discomfort about the Commission's sharing of her affidavit with Ajay Gupta without informing her or her legal team. It was mentioned that Ajay Gupta



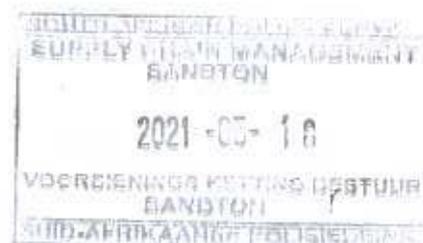
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was implicated, but he has not been in the country since the commission started and there was no basis to share the affidavit with him.

- 8.8. The Commission has been wrongly suggesting that our client volunteered to come to the Commission when the correct version is that she was approached by the Commission's Mr Sakhile Masuku in December 2020 and she in turn agreed to assist the Commission in compliance with her civic duties as a law-abiding citizen.
- 8.9. This letter must be read together with our letter dated 13 April 2021.
9. We trust that the above does set out the reasons for our client's non-appearance on the 13 April 2021 and demonstrate that her position to do so was not in defiance of the Commission but emanates from serious concerns which the Commission has failed to address. This is further demonstrated by our client's decision to attend physically today in order to explain her stance, which she would have done even in the absence of the unlawful summons.
10. We do not believe that the hostile and heavy-handed attitude adopted by the evidence leaders have assisted the process. Our client had taken a risky decision to testify at her own expense and that of her children. She is now being portrayed as a villain who is acting in breach of the Chairperson's directions, which is both wrong and unfortunate. We are available to discuss the way forward in a spirit of co-operation and civic duty.
11. In the totality of the circumstances, our client is of the firm view that the conduct of the Commission towards her has been abusive, discriminatory and disrespectful and no regard has been given to her rights and the traumatic experiences she has had to endure at the hands of other law agencies in the past nine months. Instead, these experiences are being repeated for no justifiable reason. She has now been summoned without being given an opportunity to make submissions as to the necessity of the summons.
12. We trust that the above is in order. If the Chairperson deems it necessary, the above issues will be elaborated upon in an open hearing.

Yours faithfully,


RMT Attorneys
 Gcwali Makhathini
gcwali@rmtattorneys.africa



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AFFIDAVIT

I, the undersigned,

SAKHILE MASUKU

do hereby state under oath that:

1. I am an investigator employed by the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (“the Commission”).
2. All the facts stated in this affidavit are, unless the context indicates otherwise, within my personal knowledge. They are to the best of my knowledge and belief both true and correct.
3. I freely and voluntarily give this affidavit to the Commission, in response to a supplementary / clarificatory affidavit signed on 18 May 2021 by Ms Nomachule Gigaba (formerly: Mngoma) (“Ms Mngoma”) and e-mailed to the Commission at about 17h24pm on the same date. I do not intend to respond to each and every allegation contained in such affidavit which I am informed will be addressed at the hearing of her evidence, if necessary. I will however supplement this affidavit to the extent necessary.

PREPARATION OF MS MNGOMA’S AFFIDAVIT

4. I approached Ms Mngoma on 18 December 2020 following her interview with eNCA the previous day about her relationship with her husband, Mr Malusi Knowledge Nkanyezi Gigaba (“Mr Gigaba”), their interactions with the Gupta family and matters falling within the mandate of the Commission.

5. The face-to-face interactions between Ms Mngoma in the presence of her then senior counsel - Advocate Tembeka Ngcukaitobi SC ("Advocate Ngcukaitobi"), and the Commission personnel commenced on 21 January 2021.
6. The interaction culminated in two affidavits filed by Ms Mngoma with the Commission, both of which are dated 6 March 2021 ("main affidavits"). The one main affidavit deals with the substance of her evidence and the other affidavit deals with threats to her personal security.
7. Since 21 January 2021, the Commission has had several meetings with Ms Mngoma, which took place at all times in the presence of Advocate Ngcukaitobi until about mid-March 2021 following which Ms Gwali Makhathini, Ms Mngoma's new legal representative, was introduced to the Commission in whose presence further consultations then took place.
8. The process of drafting Ms Mngoma's main affidavits emanated from her meetings with the Commission. The development of her main affidavits to final drafts was through a process engaged with her through her counsel, Advocate Ngcukaitobi.
9. The final drafts of Ms Mngoma's main affidavits were provided to Advocate Ngcukaitobi in an electronic copy format for finalising with his client, Ms Mngoma.
10. My role was to deliver the electronic copies of the affidavit to Advocate Ngcukaitobi, the last version of which I delivered to Advocate Ngcukaitobi's residence on 25 February 2021.
11. The Commission received the two commissioned original main affidavits of Ms Mngoma on 6 March 2021.
12. Since the Commission's receipt of Ms Mngoma's main affidavits on 6 March 2021, one consultation was held on 20 March 2021 with Ms Mngoma, in the presence of Advocate Ngcukaitobi, specifically to address her concerns about the leak of her one main affidavit (which deals with her evidence) to the media and to address any security concerns, which is dealt with below. At no stage during the meeting did Ms Mngoma raise issue with the veracity of the contents of her main affidavit that was leaked which she now takes issue with. She first raised issue about the contents of such affidavit at a preparatory consultation held on 8 April 2021, after Advocate



Ngcukaitobi's brief was terminated. This meeting was held in the presence of her legal representative, Ms Gcwali Makhathini.

SECURITY CONCERNS OF MS MNGOMA

13. The Commission initially consulted with Ms Mngoma, in the presence of Advocate Ngcukaitobi, on 20 and 21 January 2021.
14. On both days above, Ms Mngoma was offered security if she felt that her life was in danger.
15. On both those dates, Ms Mngoma indicated that she was not scared and will continue with the preparation of her main affidavits.
16. Subsequent to the meetings in paragraph 13 above, I had a number of telephonic interactions with Ms Mngoma regarding threats that she received via her telephone and in person.
17. I immediately took up these matters with the Commission's Head of Security.
18. On 10 March 2021, I had a telephonic discussion with Ms Mngoma following additional threats that she had received, and I also reminded her that the Commission is awaiting for her to elect a security arrangement that she requires so that the arrangement can be actioned.
19. On 20 March 2021, a meeting was arranged with Ms Mngoma, in the presence of Advocate Ngcukaitobi, at which the Commission's Head of Security took her through various security options available to her. The meeting concluded with informing Ms Mngoma that she needs to contact me once she has decided on a security arrangement that was suitable to her.
20. On 8 April 2021, a further meeting between the Commission and Ms Mngoma and her legal representative – Ms Gcwali Makhathini – occurred. At the end of these meetings, I again advised Ms Mngoma that the Commission is still awaiting for her to advise on which security option she chooses, and she informed me that she will get back to me.
21. Ms Mngoma appeared at the Commission on 26 April 2021 and up to such date Ms Mngoma had not advised me of the security option that she wanted.

22. I only learnt through Ms Mngoma's supplementary/clarification affidavit dated 18 May 2021 that Ms Mngoma no longer requires security.

LEAK OF MS MNGOMA'S AFFIDAVIT

23. On 12 March 2021, the Commission e-mailed Ms Mngoma's one main affidavit, which deals with the substance of her evidence, in its entirety to the legal representatives of Mr Gigaba and Mr Ajay Gupta. This was done in compliance with Rule 3.3 of the Commission's published Rules. The remaining parties who may be implicated by her evidence only received extracts of such affidavit attached to the Rule 3.3 notice which related to each of them.
24. On 20 March 2021, I was called by Ms Mngoma wherein she informed me that she was contacted by the Sunday Times journalist wanting her comments on her one main affidavit, which deals with her evidence, that Ms Mngoma submitted to the Commission and which was in possession of that journalist.
25. I then immediately commenced a process to investigate the source of the leak of Ms Mngoma's affidavit to the media. The Commission also successfully took all steps necessary to prevent the publication of such affidavit which would have been in violation of the Regulations governing the Commission.
26. I performed various investigation procedures, including obtaining the copy that was in possession of the Sunday Times, and conducted detailed investigations on the Commission's internal processes prior to and up to sending out Ms Ngoma's main affidavit to implicated parties in compliance with Rule 3.3, and also got assistance from the Commission's Data Forensic Technology department.
27. My final conclusion is that I am not able to identify which of the two affidavits mentioned in paragraph 23 above was leaked as both documents' electronic stamps/identifiers are the same. The limited resources of the Commission does not permit conclusive verification.

[Handwritten Signature]
DEPONENT

I certify that the deponent who acknowledges that he knows and understands the contents of this affidavit; that it is the truth to the best of his knowledge and belief and that he has no objection to taking the prescribed oath and regards same as binding on his conscience; and the administration of the oath complies with the Regulations published under Government Notice R1258 in Government Gazette 3619 of 21 July 1972, as amended. This affidavit is signed and sworn to before me at Hillbrow SAPS on this **20TH** day of **MAY 2021**.

SUID-AFRIKAANSE POLISIEDIENS
 STATION COMMANDER
20 MAY 2021
 VISPOL COMMANDER
 HILBROW
 SOUTH AFRICAN POLICE SERVICES

[Handwritten Signature]
 COMMISSIONER OF OATHS

EX OFFICIO:

FULL NAMES:

KWENA SETSIBA

PHYSICAL ADDRESS:

NO. 1 CLARANDON PLACE
Hillbrow

DESIGNATION:

Sgt