



# **EXHIBIT RR 5**

**PETRUS JOHANNES  
DU PLOOY**



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

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**SWORN AFFIDAVIT**

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I, the undersigned,

**Petrus Johannes Du Plooy**

do hereby state under oath:

1. The facts deposed to herein are true and correct and, save where the context indicates otherwise, within my personal knowledge.
2. This affidavit is submitted for purposes of providing evidence to the Commission of Inquiry into State Capture ("**the Commission**").

**Background**

3. I am employed in the South African Police Services ("**SAPS**") as a Colonel with force number 0407030-5. I am stationed at the Directorate for Priority Crimes Investigations ("**DPCI**"), Durban. I currently perform duties at the Serious Corruption Unit as Provincial Coordinator.
4. I joined the SAPS on the 12th day of December 1983. I have performed various duties in the Uniform Section and joined the Detective Branch in 1991. I was part of the Government Fraud Task Team that was formed in 1995. The main function of the task team was to investigate Government Fraud in KwaZulu-Natal. I subsequently performed duties in the Syndicate Fraud Unit, Commercial Branch, Anti-Corruption Task Team ("**ACTT**") and Serious Corruption Investigations in the DPCI.
5. I am a senior investigator dealing mainly with Fraud, Corruption (Public and Private Sector) and Money Laundering. We also focus on procurement fraud within the Government environment. We investigated matters

emanating from Public Finance Management Act ("**PFMA**"), Municipal Finance Management Act ("**MFMA**") and National Treasury Regulations.

6. These matters required specialised attention and we were therefore assisted by various stakeholders such as Forensic Auditors, National Treasury, KwaZulu-Natal Provincial Treasury, the National Prosecuting Authority ("**NPA**") and Asset Forfeiture Unit ("**AFU**"). All these role players formed part of the team that assisted to investigate these matters, which will be discussed below.

#### Overview of cases investigated

7. I am the investigating Officer of cases which were labelled in the media as the "Amigo's" case. This consists of the following three SAPS case dockets:
  - 7.1. Durban Central CAS 1538/01/2009;
  - 7.2. Pietermaritzburg CAS 626/01/2010; and
  - 7.3. Pietermaritzburg CAS 151/08/2010.
8. Durban Central CAS 1538/01/2009 is an investigation that involves a contract that was granted to a supplier called Intaka Holdings (Pty) Ltd ("**Intaka**") by the Department of Local Government and Traditional Affairs.
  - 8.1. The contract was for the procurement of 20 "Water Purification Plants" for an amount of R44 563 636.40;
  - 8.2. Dr Gaston Savoi ("**Mr Savoi**") is the director of Intaka, which is based in the Western Cape.
9. Pietermaritzburg CAS 626/01/2010 relates to the procurement of two "Water Purification Plants" for the KwaZulu-Natal Department of Health, where:
  - 9.1. An amount of R9 million was paid to Intaka;

Fo

- 9.2. The processes of the awarding of the procurement was allegedly manipulated between Intaka and the Head of Department ("HOD") of the KwaZulu-Natal Department of Health, Dr Busisiwe Nyembezi.
10. Pietermaritzburg CAS 151/08/2010 relates to the awarding of a tender to Intaka for the supply of Oxygen producing plants to hospitals in KwaZulu-Natal. The potential prejudice over the contract period of 5 years amounts to approximately R70 million.
11. A copy of a memorandum dated 17 June 2010 from the Office of the Director of Public Prosecutions ("DPP") containing a review of the cases at the time is attached hereto as **Annexure 'PDP1'**. My response to the memorandum, dated 01 July 2010, is attached hereto as **Annexure 'PDP2'**. Detail of the cases are contained in these documents.
12. In addition to the above, there are certain cases involving the Department of Health in the Northern Cape. Criminal cases were registered in Kimberly and are under investigation where "Intaka" was also involved.
13. The cases are complex in nature and the evidence is contained in 350 lever arch files. Five "Forensic Audit" reports for these cases were issued by Mr Trevor White from Price Waterhouse Coopers ("PWC"). These are listed as follows:
- 13.1. Pietermaritzburg CAS 151/08/2010: KwaZulu-Natal Department of Health: Oxyntaka (Self- Generating Oxygen Plants);
- 13.2. Pietermaritzburg CAS 626/01/2010: KwaZulu-Natal Department of Health: Water Purification Plants;
- 13.3. Durban Central CAS 1538/01/2009: KwaZulu-Natal Department of Local Government and Traditional Affairs: Water Purification Plants;
- 13.4. Pietermaritzburg CAS 151/08/2010: Peggy Nkonyeni - KwaZulu-Natal Department of Health: Supplementary Report on Oxyntaka;



13.5. Pietermaritzburg CAS 151/08/2010: KwaZulu-Natal Department of Health: Supplementary Report on Oxyntaka at Murchison Hospital.

**Prosecution of cases**

14. Although various prosecutors from the NPA dealt with the matter, Advocate Nledile Dunywa ("**Adv. Dunywa**") was the appointed as the lead Prosecutor of these cases in KwaZulu-Natal.
15. Advocate Simphiwe Mlotshwa ("**Adv. Mlotshwa**"), the then Acting DPP in KwaZulu-Natal, was also involved in the decision making. He signed all the applications for warrants of arrest in these matters.
16. On 25 August 2010, eight suspects were arrested for fraud, including Mr Savoi.
17. On 20 October 2010, an additional six accused were arrested after warrants of arrest were authorised by the Acting DPP, Adv. Mlotshwa.
18. I also received a draft charge sheet from Adv. Dunywa, which was to be used for the charges against Mr Michael Mabuyakhulu ("**Mr Mabyuakhulu**") and Ms Peggy Nkonyeni ("**Ms Nkonyeni**"). A copy of this charge sheet was saved electronically on my computer by me on 2011/07/04 and is attached as per **Annexure "PDP3"**.
19. At the time, Mr Mabuyakhulu was the Minister of Local Government and Ms Nkonyeni was the Member of Executive Council ("**MEC**") of the Department of Health.
20. Adv. Dunywa wanted to join all the cases into one "Racketeering" matter and an application for a 'Racketeering Certificate' was submitted to the DPP, Advocate Menzi Simelane ("**Adv. Simelane**").

21. Adv. Simelane approved the indictment and issued the "Racketeering" certificate after presentations were made to him by the assigned Prosecutors.
22. A copy of the approved certificate titled "*AUTHORISATION IN TERMS OF SECT 2(4) OF THE PREVENTION OF ORGANISED CRIME ACT, ACT 121 OF 1998*", which was signed on 31 July 2011, is attached hereto as **Annexure "PDP4"**.
23. Pursuant to the above, the cases were transferred to the High Court and an indictment was issued by the NPA for the prosecution of 23 accused. An unsigned copy of the indictment is attached as per annexure "**PDP5**". This was the last updated version of the indictment that I received from Adv. Nledile. I saved an electronic copy of the indictment on 2011/08/03.
24. The accused were indicted in the High Court sometime thereafter and a retired Judge was assigned to the matter, as it was contemplated that the trial would take a period of approximately three months.
25. Prior to the indictment, the investigation spanned over approximately three years and a large amount of resources went into the investigation. The case comprised of over 2 500 pages and we were assisted by National Treasury who paid approximately R100 000.00 on the scanning of the documents alone. External Forensic Auditors were briefed who prepared thorough forensic reports upon which the decision to prosecute the accused was taken. We, as the team were of the view that there was a very strong case to be answered by the accused.

#### **Withdrawal of charges**

26. On the 19th day of March 2012, my office received an invitation to attend a team meeting from the lead prosecutor, Adv. Dunywa.

27. A copy of the invitation is attached marked **Annexure "PDP6"**. At the time I did not know what the purpose of the meeting was other than what was mentioned in the invitation, which refers to the Intaka matter. I would like to point out however, that I was requested to bring:
- 27.1. a summary of the investigating diary; and
  - 27.2. a list of exhibits that were seized and/ or handed to the investigating team from different government departments and chain statements.
28. The latter item was already in the possession of the prosecutors as a scanned copy of the case docket had been provided to them. It was unclear as to what was meant by 'a summary of the investigating diary'.
29. On the 23rd day of March 2012, I attended the meeting as per the invite and found that the National Head of the NPA Serious Commercial Crime Unit ("SCCU"), Adv. Lawrence Mrwebi ("**Adv. Mrwebi**"); and the National Head of the NPA Organised Crime Unit, Adv. Anthony Mosing ("**Adv. Mosing**"), were present.
30. In addition, the following persons were in attendance:
- 30.1. Adv. N Dunywa: Lead Prosecutor Intaka;
  - 30.2. Adv. B Vimbani: Prosecutor Intaka;
  - 30.3. Adv. M Mthembu: Prosecutor Intaka;
  - 30.4. T White Forensic Accountant;
  - 30.5. Col. C Jones Head of ACTT;
  - 30.6. Lt. Col. P Du Plooy Lead Investigator Intaka.
31. I cannot remember who else was at the meeting. I must also mention that this was the first time that I met Adv. Mrwebi and Adv. Mosing.



32. Adv. Mrwebi chaired the meeting. At the beginning of the meeting, Adv. Mrwebi informed us that he was withdrawing charges against Mr Mbuyakhulu. He then asked about the evidence we had against Ms Nkonyeni because was considering withdrawing the charges against her as well. He also informed us that he had set aside one hour for the meeting and, as ten minutes had already passed whilst sorting out repairs to an air-conditioner, approximately 45 minutes remained.
33. Mr Trevor White, the author of the forensic reports, indicated that it was a complicated and voluminous matter and that it was impossible to address him fully on the matter in the time allowed, and requested three days in order to prepare a presentation on the reports to him. Adv. Mrwebi refused to allow us time to properly brief him on the matter.
34. The meeting did not go well and Adv. Mrwebi was dismissive of the submissions made by Mr White and me. At some point during the meeting, I informed Adv. Mrwebi that it appeared to me that he had already made up his mind and that this meeting or consultation was merely to 'tick a box'. I further informed him that it was the duty of the NPA to make decisions; he, therefore had to decide who will be prosecuted and on what charges.
35. At the meeting, Adv. Mrwebi indicated that he was reviewing the case and I informed him that he should notify DPCI in writing of any decision made. I was surprised about the involvement of Adv. Mrwebi and Adv. Mosing who were not part of the investigation team. Adv. Mlotshwa, the Acting DPP in KwaZulu-Natal, who had been copied in on the invitation to the meeting, did not attend the meeting.
36. Adv. L Mrwebi was the National Head, NPA SCCU and Adv. A Mosing, National Head, NPA Organised Crime Unit, which were separate components within the NPA. These components had their own prosecutors and courts. Adv. Dunywa did not fall within these components and reported

to the KwaZulu-Natal DPP. Both Adv. L Mrwebi and Adv. A Mosing were based in Pretoria.

37. During the meeting, I was surprised that none of the prosecutors involved in the cases said anything. In my experience, it is unusual for prosecutors involved in a case not to partake in discussions relating to their case.
38. On the 16th day of August 2012, I received calls from the Mercury newspaper asking if I was aware that charges would be withdrawn against certain accused in the Inaka matter. I then contacted Adv. Dunywa and he informed me he was not aware of this decision.
39. I later established that Adv. M Noko issued letters to certain accused indicating her intent to withdraw charges against them. Adv. Noko was at that stage the Director of Public Prosecutions in KwaZulu-Natal.
40. Charges were subsequently withdrawn in court by Adv. Dunywa against Mr Mbuyakhulu, Ms Nkonyeni, and four other accused, L Mkwana, N Phindela, J Thusi and I Blose (the partners of the law firm, Khuboni & Shezi, through whose trust account R1 053 million was channelled to Mr Sipho Shabalala, purportedly as a donation to the African National Congress). The charges remained against the other accused.
41. At the time Adv. Dunywa withdrew the charges, he informed the court that:
  - 41.1. he was withdrawing the charges on instructions; and
  - 41.2. that the accused had already been notified in writing of the intended withdrawal by Adv. Noko.
42. Neither the DPCI, nor I as the investigating officer, were never formally informed by Adv. L Mrwebi of the reasons for the withdrawal, despite my having requested him to do so at the meeting.

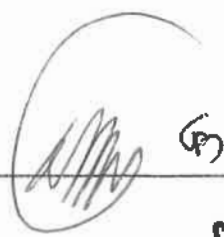


43. I submitted a progress report to my commander, Brigadier Moodley, setting out the details of the occurrences described above. A copy of my progress report dated 21 August 2012, is attached as **Annexure PDP7**. (noting that the typed date on the document reflects 28 November 2019, which is when I printed the document; however, I have written the date when it was saved to my computer in pen on the document).
44. Mr Savoi has subsequently applied for a permanent stay of prosecution, which is due to be heard in March 2020. The basis of his application is that amongst other things:
- 44.1. The handling of the matter by the NPA was procedurally flawed; and
- 44.2. The charges against Mr Mbuyakhulu and Ms Nkonyeni were based on the same evidence against him; however, the charges were withdrawn against them and not him.
45. At a certain stage when perusing certain submissions to the court, I noted that it was stated that Adv. Dunywa was no longer the prosecutor assigned to the matter. As a result, I phoned Adv. Dunywa and asked him what had happened. Adv. Dunywa responded that he was not aware that he had been removed. It later emerged that he had indeed been removed from the case, without his knowledge.

I know and understand the contents of this declaration

I have no objections to taking the prescribed oath.

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

  
COL DU PLOOY

I hereby certify that the deponent has acknowledge that he knows and understands the contents of this declaration which was sworn to before me and the deponent's signature was placed thereon in my presence at Durban on 2019-12-02 at 11:01.

*Tosperis P. [Signature]*

Commissioner of Oath  
 FLOYD DEWARON RIVIER  
 282 STALWART SIMELANE STREET  
 DURBAN  
 WARRANT OFFICER.

*[Signature]* 10.

## **ANNEXURE PDP1.**



The National Prosecuting Authority of South Africa  
Igunya Jikelele Labetshutshisi bamzantsi Afrika  
Die Nasionale Vervolgingsgesag van Suid-Afrika

## Office of the Director of Public Prosecutions

REFERENCE NO: 9/2/17 – 38/10 D

ENQUIRIES: ADV A STEYNBERG

### BY HAND

Col P Du Plooy

Hawks

Durban

17 June 2010

Dear Sir

### PROJECT X-CROSS – PMB CAS 626/01/2010

1. At the outset, I wish to thank the investigating officer for a neat and well organised docket which made my task much easier.
2. Having perused the abovementioned docket, I am satisfied that a *prima facie* case of fraud, alternatively conspiracy to commit fraud, has been made out in respect of the following individuals:
  - 2.1. Gaston Savoi
  - 2.2. Fernando Praderi
  - 2.3. Ansano Romani
  - 2.4. Ronald James Geddes
  - 2.5. Donald Keith Miller
  - 2.6. Busisiwe Muriel Nyembezi
  - 2.7. Victor Ntshangase
3. There is no evidence in the docket at hand implicating Yoliswa Lulama Mbele. While the accompanying forensic report of Trevor White of PWC implicates her in respect of a separate (but related) fraud, there is presently no evidence under oath before me upon which I can apply for a warrant of arrest.

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CRIME  
COMPONENT

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acquisition of "Oxyntaka" units from Intaka by the KZN Dept. of Health has been laid in the abovementioned forensic report, it is still necessary to register and compile a separate police docket in this respect before any arrests may be effected.

As discussed at our various meetings in connection with this project, there appears to be a good prospect of charging most, if not all, of the above with racketeering, but this will be dependant upon the finalisation of investigation in respect of the remaining matters, In particular the DoH "Oxyntaka" matter and the KZN Dept of Local Govt. and Traditional Affairs acquisition of "Wataka" units from Intaka.

In respect of the instant docket, the following outstanding matters must be attended to urgently:

- 6.1. The affidavit relied upon in the application for the search warrant filed as per A9 must be filed in the **B Clip**. The success of the prosecution will rest largely upon the admissibility of the documents seized during this search and I must satisfy myself that the search warrant was properly obtained.
- 6.2. I note that A4 is unable to positively identify the Wataka plants as being the same ones as manufactured by Grotto on the strength of the photographs provided. Since it is a vital element of our case to prove that the units supplied were grossly overpriced, it is important to reliably establish their true value. Please ascertain whether he would be able to make a positive identification based on a personal inspection of the plants.
- 6.3. Kindly advise where the **original** of A3 is still available and where it is. If we intend to prove it against Savoi I will require this document.
- 6.4. Statements must be obtained from the DoH officials named by A7 as having been present at the site inspections allegedly conducted by Romano.


6. Please ascertain whether there is a person by the name of "Andile Zonvo" [Zondo?] who is alleged to have been the person who allegedly requested the quote from A7. If so, kindly obtain his statement.
7. The Annexures to A10 must be filed.
8. It must be ascertained whether S/Supt J J Jooste who assisted A10 with the search is the same person listed on Annexure A to the search warrant as "S/Supt A J Jooste". Kindly indicate by means of an entry in the C Clip what his/her correct name is. If the mistake is with A10, this must be corrected, initialled and dated by the deponent.
9. I note that affidavits of several persons who are now regarded as suspects have been filed in the docket. Kindly briefly indicate by means of an entry in the C Clip how these affidavits came to be obtained, as their admissibility will depend upon the manner in which they were obtained and status of the deponents at the time. In due course, affidavits will have to be filed clarifying this.
10. Kindly ascertain from Trevor White whether the emails obtained from Romani's office can also be found on Intaka's computer system.
11. In due course, an affidavit must be obtained from Praderi's secretary, Ashleigh Spencer, concerning the typing and emailing of these documents.
12. An affidavit must be obtained from Nyembezi's secretary, Samantha Cheatle, regarding the circumstances under which the three quotations for the water purification machines were obtained.
13. Where are the bank statements subpoenaed as per A13? Please file same.
14. Kindly also subpoena the bank statements of Nyembezi and Ntshangase.

Guided by the Constitution, we in the National Prosecuting Authority ensure justice for the victims of crime by prosecuting without fear favour or prejudice and by working with our partners and the public to solve and prevent crime



particular, he must be asked to explain who obtained the quotes for the water purification units and, if it was not SCM, why the memo he drafted dated 6 October 2006 (A2: Annexure TSW2) reflects otherwise.

The police docket is returned herewith, but must be resubmitted with the above matters attended to by 16 July.



IVANA J. STEYNBERG

DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS

ORGANISED CRIME DIVISION: DURBAN



fo.

## **ANNEXURE PDP2.**

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

Privateak/Private-Bag  
Posbus/Post Office Box: 55062 Snell Parade Durban 4075

Verwysing Reference	26/18/2(2)
Navrae Enquiries	SUPT P DU PLOOY
Telefoon Telephone	(031) 327 8819
Faksnommer Fax number	(031) 327 8815

THE COMMANDER  
COMMERCIAL CRIME, DURBAN  
DIRECTORATE FOR PRIORITY CRIME  
INVESTIGATIONS

2010-07-01

A. Office of the Director of Public Prosecutions  
Organised Crime Component  
KwaZulu Natal  
Durban

Att: Adv A Steynberg

B. The Provincial Commissioner  
Commercial Crime  
Directorate for Priority Crime Investigations  
KwaZulu Natal  
Durban

Att: Brig A Lategan

**ALLEGED FRAUD: PIETERMARITZBURG CAS 626/01/2010 – KZN DEPT OF HEALTH:  
PROJECT X CROSS**

A.

1. Your letter with reference no. 9/2/17-38/10 D dated 17 June 2010 refers. My reply to your letter follows your paragraph reference.
2. Docket with ref. Pietermaritzburg Cas 626/01/2010 herewith for your attention. I have also obtained warrants of arrests for the following individuals:
  - 2.1 Gaston Savoi
  - 2.2 Fernando Praderi
  - 2.3 Ansano Romani
  - 2.4 Ronald James Geddes
  - 2.5 Donald Keith Miller
  - 2.6 Busisiwe Muriel Nyembezi
  - 2.7 Victor Ntshangase
3. Dr Yoliswe Mbele feature in the Oxytaka part of this project. Initially the PwC report consist of both the wataka's and oxytaka's combined into one report for the Department of Health. PwC have subsequently split the two matters into two reports for prosecution purposes. The new case will show the contraventions i.t.o. the PFMA with regards to the actions of Dr Y Mbele. The oxytaka report is completed except for the 30<sup>th</sup> of June 2010 meter readings as to the volumes of oxygen generated at the hospitals in order to calculate the prejudice.
4. I still have to register a Police docket in Pietermaritzburg with regards to the oxytaka's. I will prepare a complete case docket that will be inline with our approach in these matters.

10

5. The two matters for the Department of Health are nearly completed, I am currently working on the matter for the KZN Dept of Local Govt. and Traditional Affairs. PwC will complete the internal investigation at this department as mandated by National Treasury.
6. I have taken note of your queries with regards to the following matters:
  - 6.1 I have received the original statement for the search warrant application from Col. C Jones. I am preparing a file with regards to all the members that assisted in the searches. Their statement must marry the acknowledgements of receipts and the actual exhibits.
  - 6.2 A4 – Mr T Gerrans informed me that Grotto manufactured the first 30 wataka's. The patent of the wataka's make them identical. The wataka's do not have serial numbers. Mr T White informed me that the cost of the plants can be determined from Intaka's records.
  - 6.3 The original of this statement is filed in Durban Central Cas 1538/01/2009. I used Dr Savoie's statement to register this docket. We received this statement via Margaret Kruger. A copy of her statement is filed as per (A 29).
  - 6.4 Appointments were made to obtain the two outstanding statements on the 1<sup>st</sup> of July 2010 at Appelsbosch Hospital with regards to the site inspections.
  - 6.5 Noted and will ascertain if such a DoH official exists.
  - 6.6 Noted.
  - 6.7 Noted.
  - 6.8 When the statements of these persons were obtained they were seen as witnesses. It was only later discovered that these parties played a much bigger role than they let me to believe. An opportunity was given to them to explain their involvement in this matter. We only recently discovered the confirmation on the e-mails that they colluded with each other.
    - (a) Dr G Savoie reported this matter by voluntarily submitted a statement to the SAPS. His statement is an exhibit. He was later warned i.t.o. Sect 204 and submitted a further statement as his first statement was vague. This statement is filed in Durban Central Cas 1538/01/2009. He and his defence council were informed that it remained the prerogative of Adv. O'Brien to accept this explanation or not. During this period it was not a National Project.
    - (b) Mr. DK Miller was warned in terms of Sect 35 of his Constitutional rights by me before he made his statement. He insisted that he did not do anything wrong.
    - (c) Mr. A Romani assisted Mr. Geddes from Westpro with his quote.
    - (d) Warning statements were obtained from A Buthelezi, R Geddes.
    - (e) Dr Nyembezi supplied a statement to Col. Jones on his request. This statement was commissioned at the Post Office. I believe this statement could also be used as an exhibit. No evidence exists at the time as to her involvement except for the fact that she signed the procurement document.

- 6.9 To date Mr. Trevor White has not found the e-mails in electronic form.
- 6.10 I will obtain a statement from her with the assistance of PwC after the suspects are arrested.
- 6.11 An affidavit has already been taken and filed as per (A 26).
- 6.12 Noted
- 6.13 The bank statements of Nyembezi and Shangase were subpoenaed as per (A 31) and (A 32).
- 6.14 I will obtain his warning statement after his arrest. He is currently not very cooperative as I did request an interview with him. He informed me that he would obtain legal advice. His attorney did contact me but Mr Ntshangase never gave him proper instructions. Nothing realized thereafter.

7. The contents of the case docket are filed according to the following table:

Docket ref	Deponent/ Contents	Relevancy/ Roll played
A 1	Statement of Dr S Zungu	Complainant on behalf of KZN Dept of Health.
A 2	Statement of T White (PwC)	Statement of preliminary findings to support Sect 205 applications.
A 3	Statement of G Savoi (Copy) (Intaka) Original statement filed in D/Central Cas 1538/01/2009	Statement provided on issues of payments to Government officials. First statement handed to Gil Bolton through his auditors.
A 4	Statement of T Gerrans (Grotto)	Director of Grotto. They started to manufacture "Wataka's" for Intaka.
A 5	Statement of C Scott (Westpro)	Director of Westpro. He was unaware of quote by Geddes. State that Westpro could not manufacture w/p plants. Westpro only supply pumps.
A 6	Statement of D Megan (Westpro)	Director of Westpro. He was unaware of quote by Geddes. State that Westpro could not manufacture w/p plants. Westpro only supply pumps.
A 7	Statement of DK Miller (Imvusa)	Previous employed at Grotto. Supplied a quote on behalf of Imvusa for the procurement of two Wataka's for Appelsbosch and Rietrvlei Hospitals.
A 8	Statement of A Romani (Imvusa)	Supplied quote to Geddes so that he could quote on behalf of Westpro. He also visited the site at both hospitals on behalf of all parties. He was previously employed by Grotto.
A 9	Statement of Col K Roelofse (copy) (DPCI - Cape Town)	In charge of searches at Intaka in Tokai. Copies of receipts also attached.
A 10	Statement of Col P Haywood (copy) (DPCI - Cape Town)	Copy of statement with regards to searches.
A 11	Copy of first report from PwC	This report initially focused on Alson Buthelezi.

6.

A 12	Statement of Dr Nyembezi	Previous HOD of KZN Dept of Health. She sought 3 quotes for the procurement of 2 water purification plants. Signed procurement with Intaka as HOD.
A 13	Warning statement of A Buthelezi (Dept of Provincial Treasury)	Previous CFO at Dept of Health. Signed as CFO for procurement of two Wataka's for Appelsbosch and Rietrvlei Hospitals.
A 14	Statement of R Geddes (Westpro)	Director of Westpro. Supplied a quote on behalf of Westpro for the procurement of two Wataka's for Appelsbosch and Rietrvlei Hospitals.
A 15	Statement of Col Roelofse (DPCI – Cape Town)	Supply copies of quotes found in Intaka records in exhibit file 292 to Lt. Col. Du Plooy. Copies of cover quotes for Imvusa and Westpro attached to respective e-mails.
A 16	Application and Sect 205. (L Makwanazi) (FNB – Davenport )	Application for Sect 205 for bank records of L Makwanazi. He was a member of Rowmoor Investments. Received R1 Mill on gentleman's agreement from Savoi.
A 17	Sect 236 Statement of E Waldhausen (FNB – Davenport )	Statement, customer profile, opening docs. Buss - Bank Acc – 62077369091 Money Market – Bank Acc - 62163258786
A 18	Application for Sect 205. (P Nkonyeni) (FNB – Davenport)	Application for Sect 205 for bank records of P Nkonyeni (Previous MEC for Health)
A 19	Sect 236 Statement of E Waldhausen (FNB – Davenport )	Statement, customer profile, opening docs. Copies of cheques. Cheque - Bank Acc – 621477034483
A 20	Statement of G van der Merwe (Pensioner)	Was employed as Manager of the Infrastructure Development component at the Dept of Health.
A 21	Statement of B Zulu (Admin Clerk - Infrastructure Development)	Employed as Clerk in the Infrastructure Development Comp. at the Dept of Health. She compiled the order to supply the Wataka's. She also prepared a letter to Intaka - Dept accepted their offer.
A 22	Statement of J Pandaram (Senior Admin Clerk - Infrastructure Development)	She confirmed the statement made by B Zulu. She checked that the payment amount correspond with the order amount. She signed the order for payment.
A 23	Statement of N Pillay (Ass. Manager - Infrastructure Development)	She confirmed the SCM role in the procurement. She checked the invoice and order amount. She signed the part payment. She also signed the order for final payment.
A 24	Statement of A Zondo (Manager in CSCM)	She worked under Mr V Ntshangase. She prepared certain correspondence on the instruction of the CFO. Mr Ntshangase provided her with an approved submission from the HOD i.t.o. emergency SCM Delegation 701.
A 25	Statement of N Mthembu (Manager in Human Resources)	She was employed at CSCM and was responsible for the division of Targeted Enterprise Development within CSCM. She signed a Memorandum titled "Service Level Agreement: Water Purification" addressed to Legal Services. Legal Services was requested to draft a Purchase and Sale agreement. She found it strange that the quotes were sent to the office of the HOD and not SCM.



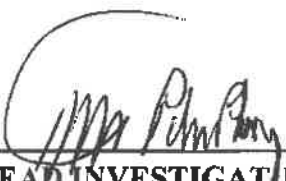
A 26	Statement of S Cheatle (Manager in the Office of the HOD)	She was the personal assistant to the previous HOD, Dr Nyembezi. She received e-mails and faxes on behalf of the HOD. She confirmed Memo 701 was received and approved by Dr Nyembezi. She further confirmed that the three quotations were addressed to Dr Nyembezi or herself. She did not request these quotations. She confirms the signature of Nyembezi on various documents as it is known to her.
A 27	Statement of P Padayachee (General Manager: Corporate Governance, IGR, ISC – Dept of Health KZN)	She together with Ntshangase and Van der Merwe visited Savoi in the Western Cape. The purpose was to explore the self generating oxygen plants. Savoi also informed them of the Water Purification Plants. On her return she wrote a report and included a brief discussion on the Wataka's.
A 28	Statement of PK Padayachee (General Manager, Legal Services – Dept of Health)	During this period she was the acting in the post. She had access to various documents in order to draft a contract/ service level agreement for Ntshangase. She queried this as she had a number of issues and concerns. <b>She was instructed by Dr Nyembezi to finalize the contract.</b>
A 29	Statement of M Kruger (Copy) (Private Forensic Investigator)	Provided statement of Savoi to SAPS. Professional relationship with G Bolton.
A 30	PwC Forensic report of Water Purification Plants (Dept of Health)	Forensic report for Water Purification Plants procured by the KZN Dept of Health.
A 31	Application for Sect 205. (B Nyembezi) (STD Bank Pietermaritzburg)	Application for Sect 205 for bank records of B Nyembezi (Previous HOD for Health)
A 32	Application for Sect 205. (V Ntshangase) (STD Bank Midlands) Statement in A 31	Application for Sect 205 for bank records of V Ntshangase (Previous Manager Supply Chain Management for Health)
A 33	Warrant of Arrest – Busisiwe Muriel Nyembezi	Previous HOD for Health
A 34	Warrant of Arrest – Victor Ntshangase	Previous Manager Supply Chain Management for Health
A 35	Warrant of Arrest – Donald Keith Miller	Director at Imvusa
A 36	Warrant of Arrest – Ronald James Geddes	Director at Westpro
A 37	Warrant of Arrest – Ansano Romani	Currently a Director at Imvusa
A 38	Warrant of Arrest – Gaston Savoi	Director at Intaka
A 39	Warrant of Arrest – Fernando Praderi	Manager at Intaka

8. Please note that we still need to analyze further bank statements with the view of adding corruption charges.
9. For any further information required, please contact Lt. Col. Du Plooy on 0834504340.
10. Kind Regards.

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**B.**

Copy for your information.

 Lt. Col  
**KZN LEAD INVESTIGATING OFFICER: COMMERCIAL CRIME, DURBAN  
DIRECTORATE FOR PRIORITY CRIME INVESTIGATIONS  
PJ DU PLOOY**

  
AD



## **ANNEXURE PDP3.**

2011/07/08

IN THE REGIONAL COURT FOR THE DIVISION FOR KWAZULU-NATAL

HELD AT PIETERMARITZBURG

REPUBLIC OF SOUTH AFRICA

In the matter of:

CASE NO: 1119/2010

THE STATE

VS

1. MICHAEL MABUYAKHULU an adult male South African of .....years of age. residing at ..... At the time of commission of the alleged offences, the accused was an MEC for Local Government, Housing and Traditional Affairs in KwaZulu-Natal.
2. PEGGY NKONYENI an adult female residing at No. ....in Pietermaritzburg. At the time of commission of the alleged offences, the accused was an MEC for Health in KwaZulu-Natal.

(hereinafter referred to as "the Accused")

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### DRAFT CHARGE SHEET

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### PREAMBLE

**Whereas** it is alleged that:

1. At all material times thereto:

- 1.1 Accused 1 was an MEC for Local Government, Housing and Traditional Affairs, KwaZulu-Natal during the period of the commission of the alleged offences. He is currently an MEC for Economic Development.
  - 1.2 Accused 2 was an MEC for Health, KwaZulu-Natal during the period of the commission of the alleged offences. She was an acquaintance of Gaston Savoi, the director of Intaka Investments (Pty) Ltd. She is currently the speaker of the Provincial Legislature.
2. On or about 20 to 24 March 2004 Prof Green Thompson, Sipho Shabalala, together with certain government officials travelled to Brazil at the invitation of Gaston Savoi to view certain products which were allegedly produced and/or manufactured by Intaka Investments (Pty) Ltd, including its water purification units ('Watakas').
3. Upon his return from Brazil, Sipho Shabalala requested a quotation from Intaka Investments (Pty) Ltd and on the basis of the said quotation started negotiating for the disposal of sum of forty four million (R44,000,000.00) Rand that was in the Poverty Alleviation Fund. Sipho Shabalala further motivated for the disposal of the said funds on urgency basis and that Intaka Investments (Pty) Ltd was the manufacturer and the only supplier of the water purification units. The said motivation was amongst others approved by accused 1 who was by – then an MEC for Local Government, Housing and Traditional Affairs.

4. Accused 1 approved inter alia the disposal of the poverty alleviation fund and that Intaka Investments (Pty) Ltd be awarded the contract without the testing of the market and/or a determination of whether Intaka Investments (Pty) Ltd was the only manufacturer and supplier of the water purification plants. Prior to approving the acquisition of the 22 water purification plants, accused 1 failed to ensure compliance with the provisions and procedures provided for in the Public Finance Management Act.
5. The Water Purification Units in question were ostensibly to be procured under SCM Interim Delegation 701, which provides for the deviation from normal tender procedures in urgent and emergency cases. However, the delegation requires that, where practicable, at least three quotations must be obtained for the supply of the goods in question, to ensure that a fair and market related price is obtained. The procurement process adopted in the instant matter purported to follow this procedure. The responsibility for attending to the procurement process, including sourcing suppliers and obtaining quotations falls within the mandate of the SCM unit.
6. The water purification plants which were said to have been urgent due to the dire need of the rural population of the province were never installed despite having been purchase.
7. Accused 1 never disclosed to parliament and/or course to be investigated this wasteful expenditure of a fund which was intended to improve the quality of life of the people of the province.
8. On 9 October 2006, Gaston Savoi was advised that the contract had been awarded to Intaka Investments, as per its quote.

9. On 11 June 2008 accused 1 received a corrupt payment from Sipho Derrick Shabalala in the sum of One Million Rand (R1 000 000-00) which has been supplied to Sipho Shabalala by Intaka Investments (Pty) Ltd subsequent to the purchase of the 22 water purification plants.
10. Prior to the acquisition of water purification plants by her department accused 2 attended a meeting that was held on 30 March 2005 with Messrs Sipho Gcabashe, Sipho Shabalala and Gaston Savoi.
11. In August 2006, subsequent to a number of meetings between accused 2, Gaston Savoi and Busisiwe Nyembezi, Busisiwe Nyembezi instructed certain Department officials to travel to Cape Town to meet with Gaston Savoi and view certain products produced by Accused No 9, including its 'Wataka' water purification units ("WPU's"). Gaston Savoi had been actively marketing these Wataka WPUs with officials in (*inter alia*) KZN since March 2005. It is unknown when exactly Accused 2 and Gaston Savoi first met, but by the relevant time they were on very friendly terms.
12. At a certain stage, Accused 2 and Busisiwe Nyembezi expressed concern about the quality of drinking water supplied to various KZN provincial hospitals. Accused 2 and Busisiwe Nyembezi decided to install WPUs at two of these hospitals, *to wit* Rietvlei and Appelsbosch Hospitals. This was despite the advice given to Busisiwe Nyembezi by the then-Manager of the Department's Infrastructure Development Component to the effect that this issue should rather be addressed by the Department of Water and Land Affairs, within whose

mandate it fell, and despite the fact that the procurement had not been budgeted for.

13. All government procurement of goods and services is regulated by the Public Finance Management Act, No 1 of 1999 ("the PFMA") and regulations issued thereunder. Section 18 of the PFMA entrusts the control of provincial budgets to the various Provincial Treasuries. These Provincial Treasuries may, in terms of section 20, delegate certain powers and functions to the Heads of the various provincial departments.

14. The WPU's in question were ostensibly to be procured under SCM Interim Delegation 701, which provides for the deviation from normal tender procedures in urgent and emergency cases. However, the delegation requires that, where practicable, at least three quotations must be obtained for the supply of the goods in question, to ensure that a fair and market related price is obtained. The procurement process adopted in the instant matter purported to follow this procedure. The responsibility for attending to the procurement process, including sourcing suppliers and obtaining quotations, falls on the SCM unit.

15. In the instant matter, Accused 2 colluded with Busisiwe Nyembezi and Gaston Savoi to cause Intaka Investments (Pty) Ltd to supply a quotation for the two WPU's sought and to arrange for a further two ostensibly "independent" quotations, as required by the procurement policy. Gaston Savoi then supplied Busisiwe Nyembezi with the names and details of Donald Keith Miller and Ronald James Geddes and their respective companies for the purpose of obtaining these quotations. The provision of the three quotations was a sham intended, inter alia, to conceal the fact that:

- 15.1 Gaston Savoi, accused 2 and Busisiwe Nyembezi had already conspired to award the contract to Intaka Investments (Pty) Ltd and
- 15.2 the equipment was being supplied at a grossly over-inflated price.
16. Gaston Savoi and Fernando Praderi caused staff at Intaka Investments (Pty) Ltd to draft fictitious quotations and forward same to Donald Keith Miller and Ronald James Geddes.
17. Donald Keith Miller and Ronald James Geddes, in turn, caused these fictitious quotations to be placed on their respective companies letterheads. They then each signed and submitted their "quotations" to the Department. Both of these quotations reflected prices which were even higher than the price offered by Intaka Investments (Pty) Ltd. Furthermore, neither Westpro nor Invusa were registered on the KZN Provincial Suppliers Database, as required by SCM Delegation 701.
18. The Infrastructure Development Component was never approached to draw up any detailed specifications, as was the norm for the procurement of technical equipment, nor was it otherwise involved in the procurement process prior to the contract being awarded. The three ostensible bidders for the contract also did not attend a proper site inspection, as would normally occur in a competitive bidding process. However, Fernando Praderi and Ansano Romani did visit the two proposed sites on behalf of Intaka Investments (Pty) Ltd. At the time, Ansano Romani was in fact still employed by Grotto, but failed to inform his employers of this visit. It was subsequently claimed that Ansano Romani was also in fact

representing the other two ostensible bidders (Donald Keith Miller and Ronald James Geddes) at this meeting.

19. Ronald James Geddes company, Westpro, was not in the business of manufacturing WPU's, nor did it have the capacity to do so. Ronald James Geddes was also not mandated to supply a quotation on behalf of Westpro, as he did. When questioned subsequently as to how he was able to compile this quotation, Ronald James Geddes produced a letter ostensible dated 26 October 2006 and signed by Ansano Romani, ostensibly on behalf of Grotto ("the Grotto letter"). Ronald James Geddes claimed to have based the quotation which he submitted to the Department on the information contained in the Grotto letter. The Grotto letter grossly overstated the costs of the equipment described therein. It is alleged that the Grotto letter was fraudulently generated *ex post facto* with the intention of concealing the fraudulent scheme described herein.

20. Donald Keith Miller's company, Imvusa, was just starting up at this time. It subsequently received a lot of lucrative business manufacturing WPUs for Intaka Investments (Pty) Ltd.

21. After the three quotations described above had been received by Busisiwe Nyembezi, via her secretary, Victor Ntshangase composed and signed a memorandum addressed to Busisiwe Nyembezi and dated 6 October 2006. This memorandum purported to motivate *inter alia* for the procurement of the water purification equipment in terms of SCM delegation 701, due to the alleged "health threatening situation" created by the contaminated water at the hospitals in question. The memorandum was also signed and recommended by Alson Siphosari Sibiyane Buthelezi in his capacity as CFO. It asserts that "Three quotations



were invited by the Supply Chain Management Unit", whereas in truth Busisiwe Nyembezi, Victor Ntshangase and Alson Sipho Saribiyane Buthelezi well knew that the SCM unit had never invited these quotations. It further seeks approval to nominate "the lowest bidder", namely Intaka Investments (Pty) Ltd, to supply the equipment "at a total cost of R9 960 000.00 including VAT **and no hidden costs**" (emphasis added). This is despite the fact that the WPU's required chemicals to the cost of approximately R39 000.00 per month (including VAT) to operate. This memorandum was thereafter approved by Busisiwe Nyembezi.

22. Subsequent to the awarding of the contract to Accused No 9, the Acting General Manager of Department's Legal Services, Ms P K Padayachee, was requested by Victor Ntshangase to draft a purchase and sale agreement. In response to certain queries, Victor Ntshangase again represented to her in a memorandum dated 12 October 2006 that "Quotations were requested by Demand Section [of SCM] and received on the 29 September 2009. Three quotations were received." When Ms Padayachee highlighted certain problems with the procurement process and insisted on further details regarding, *inter alia*, the specifications of the equipment, which she felt necessary to conclude the agreement, Busisiwe Nyembezi contacted her and gave her an instruction to finalise the agreement "today".

23. An agreement was subsequently concluded and pursuant to this Accused No 9 was paid a total of R9 960 000.00 in four tranches, as follows:

23.1 R4 780 000 on 12 January 2007

23.2 R4 780 000 on 26 February 2007

23.3 R 200 000 on 29 May 2007; and

23.4 R 200 000 on 21 June 2007.

24. It is alleged that the price paid of R4 980 000.00 per unit, including VAT and installation, was not market related, but rather grossly over-inflated. At the relevant time, Grotto supplied materially identical units to Intaka Investments (Pty) Ltd at a price of no more than R500 000 per unit. Even allowing for transport and installation costs, VAT and a profit margin of 20%, the fair and market related price per WPU should not have exceeded R1 million. Thus, the price per unit was over-inflated by Intaka Investments (Pty) Ltd by at least R3 980 000.00 per unit.

25. Accused 2 had a personal relationship with Lindelihle Mkhwanazi (the sole director of Rowmoor Investments 738 (Pty) Ltd) who despite having played no particular role towards the purchase of water purification plants by the Department of Health was paid an amount of R1 Million Rand (R1,000,000.00) for marketing of the two water purification plants for Rietvlei and Appelsbosch Hospitals.

26. The misrepresentations described herein have accordingly caused the following prejudice:

26.1 actual financial prejudice to the Department of Health and/or the fiscus in the sum of at least R7,960,000.00

26.2 actual and potential prejudice to other potential suppliers who were deprived of the opportunity to bid for this contract; and

26.3 actual and potential prejudice to the officials of the Department who were tasked with the duty of ensuring a fair and transparent procurement process.

**Now therefore** the accused are guilty of the crime of:

**COUNT 1: FRAUD READ WITH THE PROVISIONS OF SECTIONS 99, 103, 221, 222, 236, 246, 248 AND 332 OF ACT 51 OF 1977 AND SECTION 51(2) OF ACT 105 OF 1997) (accused 1)**

In that during the period between March 2004 and December 2007, and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, did unlawfully, and with intent to defraud, misrepresent to:

The KwaZulu-Natal Department of Local Government, Housing and Traditional Affairs and/or its officials and/or potential competing suppliers and/or the KwaZulu-Natal Legislature and/or the South African fiscus.

**That:**

1. He was acting in good faith when the accused approved the disposal of R44 Million Rand (R44, 000, 000, 00) that was in the poverty alleviation fund;
2. The need to dispose such funds was urgent and to be expedited;
3. This was to the benefit of the KwaZulu Natal population and/or government;
4. Intaka Investments was the manufacturer and only supplier of the plants to be procured.

And thus did induce KwaZulu-Natal Department of Health and/or its officials and/or potential competing suppliers and/or the South African fiscus to believe in the said

misrepresentation to their actual or potential prejudice. And did as a result of the said misrepresentation authorize the disposal of the said R44 000 000 rands through the purchase of water purifications plants from Intaka investments.

**Whereas** when the accused made such misrepresentation(s) well knew that:

1. That he was not acting in good faith when he approved the disposal of the same amount;
2. That the need for the disposal of such amount was not urgent and therefore did not warrant to be dealt with as such;
3. This was not meant to benefit the KwaZulu-Natal population and/or the KwaZulu- Natal Government;
4. Intaka Investments was not a manufacturer and the only supplier of the said plants.

#### **COUNT 2: MONEY LAUNDERING (Accused 1)**

**THAT** accused is guilty of contravening Section 4 read with section 8(1) of Prevention of Organised Crime Act, Act No. 121 of 1998

**IN THAT** on 11 June 2008, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonable to have known that certain property, to wit: a sum of One Million Rand (R1 000 000-00) was proceeds of unlawful activities or that they formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of One Million Rand (R1 000 000-00) would be utilised by accused 1 and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that

h



money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**COUNT 3: FRAUD (READ WITH THE PROVISIONS OF SECTIONS 99, 103, 221, 222, 236, 246, 248 AND 332 OF ACT 51 OF 1977 AND SECTION 51(2) OF ACT 105 OF 1997)**  
**(Accused 2)**

IN THAT during or about the period September to October 2006 and at or near Pietermaritzburg in the Regional Division of KwaZulu-Natal the accused did unlawfully and with intent to defraud, misrepresent to: defraud, misrepresent to:

The KwaZulu-Natal Department of Health and/or its officials and/or potential competing suppliers and/or the South African fiscus:

**THAT:**

1. The Supply Chain Management Unit of the Department of Health had sought and obtained three quotations for the supply of water purification units for Rietvlei and Appelsbosch Hospitals; and/or
2. That such quotations were obtained in the course of a fair and transparent procurement process; and/or
3. That such quotations were genuine and independent quotations prepared by the companies purporting to submit them for consideration by the Department; and/or
4. That the companies purporting to submit the quotations genuinely intended to bid for the contract and had the intention and capacity to supply the equipment described therein; and/or

60 (m)

5. That such quotations represented a fair and market related price for the said equipment;

**AND DID THUS** induce or attempt to induce the kwaZulu-Natal Department of Health and/or its officials and or potential competing suppliers and/or the South African fiscus: and to accept that the aforementioned misrepresentations were true and correct;

**CAUSING** prejudice or potential prejudice to the kwaZulu-Natal Department of Health and/or its officials and or potential competing suppliers and/or the South African fiscus:, including patrimonial damage in the amount of at least R7,960,000.00

**WHEREAS** when they made the said misrepresentations the accused well knew that:

1. The quotations had not been obtained by the Supply Chain Management Unit, but rather by Busisiwe Nyembezi, in collusion with Gaston Savoi and Accused No 2 and/or
2. That such quotations were not obtained in the course of a fair and transparent procurement process, but were intended to conceal the fact that the accused had conspired to award the contract for the supply of the equipment to Intaka Investments (Pty) Ltd; and/or
3. That such quotations were not genuine and independent quotations prepared by the companies purporting to submit them for consideration, but were in fact prepared by Gaston Savoi, Fernando Praderi and Intaka Investments (Pty) Ltd and supplied to Donald Keith Miller and Ronald James Geddes for signature; and/or

4. That, apart from Intaka Investments (Pty) Ltd, the companies purporting to submit the quotations genuinely had no intention to bid for the contract, and/or no intention or capacity to supply the equipment described therein; and/or
5. That such quotations did not represent a fair and market related price for the said equipment, but on the contrary were grossly overinflated.

### COUNT 3: CORRUPTION

**THAT the accused is guilty of the crime of contravening the provisions of section 4 (1) (a) read with Sections 1,2, 4(2), 24, 25, 26(1) (a) of the Prevention and Combating of Corrupt Activities Act 12 of 2004. (Against accused 2 only)**

In that during August 2007, and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused, a public officer, directly or indirectly, accepted or offered , or agreed to accept from GASTON SAVOI and/or Intaka Investments (Pty) Ltd a gratification, to wit an amount of One Million Rand (R1, 000, 000.00 ) to be paid into her personal friend's (Lindelihle Mkhwanazi) company account, Rowmoor Investments 738 (Pty) Ltd for the benefit of herself or for the benefit of Lindelihle Mkhwanazi or for the benefit of any other person unknown to the state, in order to act, personally or by influencing other persons to award a tender and/or order for the supply of water purification plants to Intaka Investments (Pty ) Ltd, an act that was illegal, dishonest and biased in carrying out or performance of their powers, duties and function arising out of their constitutional, statutory, contractual obligations, which act amounted to the abuse of position of authority, the violation of

their legal duty or set of rules which was designed to achieve an unjustified result, thereby committing the offence of corruption.



## **ANNEXURE PDP4.**

**AUTHORISATION IN TERMS OF SECTION 2(4) OF THE  
PREVENTION OF ORGANISED CRIME ACT, ACT 121 OF 1998**

**THE STATE VERSUS:**

1. Gaston Savoi
2. Sipho Derrick Shabalala
3. Busisiwe Muriel Nyembezi
4. Peggy Yoliswa Nkonyeni
5. Victor Ntshangase
6. Alson Sipho Saribiyane Buthelezi
7. Ronald Green-Thompson Winston
8. Yolisa Lufama Mbele
9. Fernando Praderi
10. Annsano Romani
11. Donald Keith Miller
12. Sandile Kuboni
13. Michael Mabuyakhulu
14. Beatrice Ntombenhle Shabalala
15. Lindelihle Mkhwanazi
16. Nozibele Priscilla Phindela
17. Jabulani Langelihle Thusi
18. Ian Buhlebakhe Blose



19. Intaka Holdings (Pty) Ltd
20. Rowmoor Investments 738 (Pty) Ltd
21. Skyros Medical Suppliers (Pty) Ltd
22. Kuboni & Shezi Attorneys
23. Blue Serenity Investments (Pty) Ltd

I, **MENZI SIMELANE**, National Director of Public Prosecutions of South Africa, do hereby, in terms of section 2(4) read with sections 1 and 2 of Prevention of Organised Crime Act, Act 121 of 1998, authorise the institution of prosecution against the abovementioned accused in respect of offences committed during the period March 2004 to December 2007, to wit contraventions of section 2(1)(f), [Section 2(1)(f) only in respect of accused 1, 2, 3 and 4], section 2(1)(a), 2(1)(b), 2(1)(c), 2(1)(d), and 2(1)(e) of the Prevention of Organised Crime Act, Act 121 of 1998:

Given under my hand at **PRETORIA** on this 31<sup>st</sup> day of **JULY** 2011.



**MENZI SIMELANE**  
**NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS**  
**REPUBLIC OF SOUTH AFRICA**

**ANNEXURE "A"      PATTERN OF RACKETEERING ACTIVITY**

The planned ongoing, continuous or repeated participation or involvement in the following offences referred to in Schedule 1 and all of which occurred after the commencement of the Act.

**RACKETEERING ACT 1: Fraud**

(Accused nos 1, 7 and 19)

(Count 3)

**RACKETEERING ACT 2: Fraud**

(Accused nos 1, 3, 4, and 19)

(Count 4)

**RACKETEERING ACT 3: Fraud**

(Accused nos 1, 9, 10, 11 and 19)

(Count 5)

**RACKETEERING ACT 4: Fraud**

(Accused nos 3, 4, 5 and 6)

(Count 6)

**RACKETEERING ACT 5: Fraud**

(Accused nos 1, 3, 4, 5, 6, 8 and 19)

(Count 7)

**RACKETEERING ACT 6: Fraud**

(Accused nos 1, 2, 13 and 19)

(Count 8)

**RACKETEERING ACT 7: Corruption**

(Accused nos 1 and 19)

(Count 9)

RACKETEERING ACT 8: Corruption

(Accused nos 2 and 7)

(Count 10)

RACKETEERING ACT 9: Corruption

(Accused nos 1 and 19)

(Count 11)

RACKETEERING ACT 10: Corruption

(Accused no 2 only)

(Count 12)

RACKETEERING ACT 11: Corruption

(Accused nos 1 and 19)

(Count 13)

RACKETEERING ACT 12: Corruption

(Accused no 2 only)

(Count 14)

RACKETEERING ACT 13: Corruption

(Accused no 4 only)

(Count 15)

RACKETEERING ACT 14: Corruption

(Accused no 4 only)

(Count 16)

RACKETEERING ACT 15: Corruption

(Accused nos 1 and 19)

(Count 17)

**RACKETEERING ACT 16:** Corruption

(Accused nos 2 and 13)

(Count 18)

**RACKETEERING ACT 17:** Corruption

(Accused nos 1 and 19)

(Count 19)

**RACKETEERING ACT 18:** Corruption

(Accused no 2 only)

(Count 20)

**RACKETEERING ACT 19:** Corruption

(Accused nos 1 and 19)

(Count 21)

**RACKETEERING ACT 20:** Corruption

(Accused nos 2 and 13)

(Count 22)

**RACKETEERING ACT 21:** Corruption

(Accused nos 1, 2, 12, 14, 19 and 22)

(Count 23)

**RACKETEERING ACT 22:** Corruption

(Accused nos 1, 2, 13 and 19)

(Count 24)

**RACKETEERING ACT 23:** Money laundering

(Accused nos 2, 12, 14, 22 and 23)

(Count 25)

**RACKETEERING ACT 24:** Money laundering

(Accused nos 2, 12, 14, 22 and 23)

(Count 26)

**RACKETEERING ACT 25:** Money laundering

(Accused nos 1, 4, 15, 19 and 20)

(Count 27)

**RACKETEERING ACT 26:** Money laundering

(Accused nos 1, 4, 15, 19 and 20)

(Count 28)

**RACKETEERING ACT 27:** Money laundering

(Accused nos 1, 2, 12, 14, 19 and 22))

(Count 29)

**RACKETEERING ACT 28:** Money laundering

(Accused nos 1, 2, 12, 14, 19 and 22))

(Count 30)

**RACKETEERING ACT 29:** Money laundering

(Accused nos 1, 2, 12, 14, 19 and 22))

(Count 31)

**RACKETEERING ACT 30:** Money laundering

(Accused nos 1, 2, 12, 14, 19 and 22))

(Count 32)

**RACKETEERING ACT 31:** Money laundering

(Accused nos 1, 2, 12, 14, 19 and 22))

(Count 33)

**RACKETEERING ACT 32:** Money laundering

(Accused nos 1, 2, 12, 14, 16, 17 and 22)

(Count 34)

**RACKETEERING ACT 33:** Money laundering

(Accused nos 1, 2, 12, 14, 16, 17 and 22)

(Count 35)



**RACKETEERING ACT 34:** Money laundering

(Accused nos 1, 2, 12, 14, 16, 17 and 22)

(Count 36)

**Alternative to count 36:** Contravening section 5(a) read with sections 1 and 8 of  
the Prevention of Organised Crime Act no. 121 of 1998:

**Assisting another to benefit from the proceeds of  
unlawful activities. (12, 16, 17 and 22)**

**RACKETEERING ACT 35:** Money laundering

(Accused nos 2, 14, 16, 17 and 22)

(Count 37)

**Alternative to Count 37:** Contravening section 5(a) read with sections 8(i) and 1 of  
the Prevention of Organised Crime Act no. 121 of 1998:

**Assisting another to benefit from the proceeds of  
unlawful activities. (16, 17 and 22)**

**RACKETEERING ACT 36:** Money laundering

(Accused nos 2, 14, 16, 17 and 22)

(Count 38)

**Alternative to count 38:** Contravening section 5(a) read with sections 1 and 8 of  
the Prevention of Organised Crime Act no. 121 of 1998:

**Assisting another to benefit from the proceeds of  
unlawful activities. (16, 17 and 22)**

**RACKETEERING ACT 37:** Money laundering

(Accused nos 2, 14, 16, 17 and 22)



(Count 39)

Alternative to count 39: Contravening section 5(a) read with sections 1 and 8 of the Prevention of Organised Crime Act no. 121 of 1998: Assisting another to benefit from the proceeds of unlawful activities. (16, 17 and 22)

RACKETEERING ACT 38: Money laundering  
(Accused nos 2, 14, 16, 17 and 22)  
(Count 40)

2, 14, 16, 17 and 22 Alternative to count 40: Contravening section 5(a) read with sections 1 and 8 of the Prevention of Organised Crime Act no. 121 of 1998: Assisting another to benefit from the proceeds of unlawful activities. (16, 17 and 22)

RACKETEERING ACT 39: Money laundering  
(Accused nos)  
(Count 41)

Alternative to count 41: Contravening section 5(a) read with sections 1 and 8 of the Prevention of Organised Crime Act no. 121 of 1998: Assisting another to benefit from the proceeds of unlawful activities. (16, 17 and 22)

RACKETEERING ACT 40: Money laundering  
(Accused nos 2, 14, 16, 17 and 22)  
(Count 42)

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## **ANNEXURE PDP5.**

2 PM/08/03

PDPs

**IN THE KWAZULU-NATAL HIGH COURT, PIETERMARITZBURG  
REPUBLIC OF SOUTH AFRICA**

**In the matter of:**

**CASE NO:** \_\_\_\_\_

**THE STATE**

**versus**

- 1. Gaston Savoi** an adult Uruguayan male residing at  
no. 10 Waybill Lane, Steenberg  
Estate, Tokai, Cape Town.
- 2. Sipho Derrick Shabalala** an adult South African male residing  
at no. 11 Bonanza Road, Bellevue,  
Pietermaritzburg.
- 3. Busisiwe Muriel Nyembezi** an adult South African female residing at  
16 Msonti Road, Kloof, Pinetown.
- 4. Peggy Yoliswa Nkonyeni** an adult South African female residing at  
Pietermaritzburg, KwaZulu-Natal.
- 5. Victor Ntshangase** an adult South African male residing at  
Flat no. 52, Sandhurst, Pietermaritzburg.
- 6. Alson Sipho Saribiyane Buthelezi** an adult South African male residing at  
170 Hesketh Drive, Hayfields,  
Pietermaritzburg.



7. **Ronald Winston Green-Thompson** an adult South African male residing in Durban; KwaZulu-Natal.
8. **Yolisa Lulama Mbele** an adult South African female residing at no. 4 Joseph Chamberlain Road, Hilton, Pietermaritzburg.
9. **Fernando Praderi** an adult Uruguayan male residing at 42 Blue Crane Way, Tokai, Cape Town.
10. **Annsano Romani** an adult South African male residing at 4 Minorca Avenue Monte Sereno, Somerset West, Cape Town.
11. **Donald Keith Miller** an adult South African male residing at 4 Dugannon Street, Kenilworth, Cape Town.
12. **Sandile Kuboni** an adult South African male residing at no. 82 Hawaan Forest Estate, Umhlanga Ridge, Durban.
13. **Michael Mabuyakhulu** an adult South African male residing at Pietermaritzburg; KwaZulu-Natal.
14. **Beatrice Ntombenhle Shabalala** an adult South African female residing at no. 11 Bonanza Road, Bellevue, Pietermaritzburg.
15. **Lindelihle Mkhwanazi** an adult South African male residing at no. 10450, 29<sup>th</sup> Avenue, Clemont, Pinetown.

16. **Nozibele Priscilla Phindela** an adult South African female residing at 37 Ombha Court, 9 Hospital Road, Durban.
  
17. **Jabulani Langelihle Thusi** an adult South African male residing at Emondini Area, KwaNyuswa, Botha's Hill, Pinetown.
  
18. **Ian Buhlebakhe Blose** an adult South African male residing at H529 Umlazi Township, Durban.
  
19. **Intaka Holdings (Pty) Ltd t/a Intaka Tech (Pty) Ltd** a corporate body within the meaning of section 332 of Act 51 of 1977 as represented by Gaston Savoi, accused no 1
  
20. **Rowmoor Investments 738 (Pty) Ltd** a corporate body within the meaning of section 332 of Act 51 of 1977 as represented by Lindelihle Mkhwanazi, accused no 15
  
21. **Skryros Medical Suppliers (Pty) Ltd** a corporate body within the meaning of section 332 of Act 51 of 1977 as represented by Sipho Derrick Shabalala, accused no 2
  
22. **Kuboni & Shezi Attorneys** a corporate body within the meaning of section 332 of Act 51 of 1977 as represented by Sandile Kuboni, accused no 12
  
23. **Blue Serenity Investments (Pty) Ltd** a corporate body within the meaning of section 332 of Act 51 of 1977 as represented by Beatrice Ntombenhle Shabalala, accused no 14

**(hereinafter referred to as the accused)**

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## INDICTMENT

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The Director of Public Prosecutions: KwaZulu-Natal alleges that the accused are guilty of the following offences:

**Count no 1:** Contravening Section 2(1)(f) read with Sections 1, 2(2), 2(3), 2(4) and 3 of the Prevention of Organised Crime Act 121 of 1998, as amended:  
**Managing the enterprise through a pattern of racketeering activities. (against accused nos 1, 2, 3 and 4)**

**Count no 2:** Contravening Section 2(1)(e) read with Sections 1, 2(2), 2(3), 2(4) and 3 of the Prevention of Organised Crime Act 121 of 1998, as amended:  
**Conducting or participating in the enterprise's affairs. (against all accused)**

**Count no 3:** **Fraud** read with the provisions of section 99 and 103 of Act 51 of 1977 and the relevant provisions of section 51 of Act 105 of 1997  
**(against accused nos 1, 7 and 19)**

**Count no 4:** **Fraud** read with the provisions of sections 99, and 103 of Act 105 of 1977 and the relevant provisions of section 51 of Act 105 of 1997.  
**(against accused nos 1, 3, 4 and 19)**

**Count no 5:** **Fraud** read with the provisions of sections 99, and 103 of Act 51 of 1977 and the relevant provisions of section 51 of Act 105 of 1997.  
**(against accused nos 1, 9, 10, 11 and 19)**

- Count no 6:**      **Fraud** read with the provisions of sections 99, and 103 of Act 51 of 1977 and section 51 of Act 105 of 1997 **(against accused nos 3, 4, 5, and 6)**
- Count no 7:**      **Fraud** read with the provisions of Sec 99, and 103 of Act 51 of 1977 and the relevant Provisions of Sec 51 of Act 105 of 1997 **(against accused nos 1, 3, 4, 5, 6, 8 and 19)**
- Count no 8:**      **Fraud** read with the provisions of sections 99, and 103 of Act 51 of 1977 and section 51 of Act 105 of 1997 **(against accused nos 1, 2, 13 and 19)**
- Count no 9:**      Contravening section 1(1)(a) of the Corruption Act, no 94 of 1992 and read with section 51(2)(a) and Part II of Schedule 2 of Act 105 of 1997: **Corruption (against accused nos 1 and 19 )**
- Count no 10:**      Contravening section 1(1)(a) of the Corruption Act, no 94 of 1992 and read with section 51(2)(a) and Part II of Schedule 2 of Act 105 of 1997: **Corruption (against accused nos 2 and 7)**
- Count no 11:**      Contravening section 1(1)(a) of the Corruption Act, no 94 of 1992 and read with section 51(2)(a) and Part II of Schedule 2 of Act 105 of 1997: **Corruption (against accused nos 1 and 19)**
- Count no 12:**      Contravening section 1(1)(a) of the Corruption Act, no 94 of 1992 and read with section 51(2)(a) and Part II of Schedule 2 of Act 105 of 1997: **Corruption (against accused no 2 only)**
- Count no 13:**      Contravening section 3(b) read with sections 1, 24, 25, 26 and 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 and with section 51(2)(a) and Part II of Schedule 2 of Act 105 of 1997: **Corruption (against accused nos 1 and 19)**

- Count no 14:** Contravening section 4 (1) (a) read with sections 1,2, 4(2), 24, 25, 26(1) (a) of the Prevention and Combating of Corrupt Activities Act 12 of 2004: **Corruption (against accused no 2 only)**
- Count no 15:** Contravening section 4 (1) (a) read with sections 1, 2, 4(2), 24, 25, 26(1) (a) of the Prevention and Combating of Corrupt Activities Act 12 of 2004: **Corruption (against accused no 4 only)**
- Count no16:** Contravening section 4 (1) (a) read with sections 1,2, 4(2), 24, 25, 26(1) (a) of the Prevention and Combating of Corrupt Activities Act 12 of 2004: **Corruption (against accused no 4 only)**
- Count no 17:** Contravening section 3(b) read with sections 1, 24, 25, 26 and 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 and with section 51(2)(a) of Act 105 of 1997: **Corruption (against accused nos 1 and 19)**
- Count no 18:** Contravening section 4(a) read with sections 1, 24, 25, 26 and 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 and further read with section 51(2)(a) of Act 105 of 1997: **Corruption (against accused nos 2 and 13)**
- Count no 19:** Contravening section 3(b) read with sections 1, 24, 25, 26 and 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 and with section 51(2)(a) of Act 105 of 1997: **Corruption: Giving a Benefit (against accused nos 1 and 19)**
- Count no 20:** Contravening section 4 (a) read with sections 1, 24, 25, 26 and 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 and with section 51(2)(a) of Act 105 of 1997: **Corruption: Receiving a Benefit (against accused no 2 only)**



- Count no 21:** Contravening section 3(b) read with sections 1, 24, 25, 26 and 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 and with section 51(2)(a) of Act 105 of 1997: **Corruption: Giving a Benefit (against accused nos 1 and 19)**
- Count no 22:** Contravening section 4 (1) (a) read with sections 1, 2, 4(2), 24, 25, 26(1) (a) of the Prevention and Combating of Corrupt Activities Act 12 of 2004: **Corruption (against accused nos 2 and 13)**
- Count no 23:** Contravening section 4 read with section 8(1) of Prevention of Organised Crime Act, Act No. 121 of 1998: **Money Laundering (against accused nos 1, 2, 12, 14, 19 and 22)**
- Count no 24:** Contravening section 4 read with section 8(1) of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 2, 13 and 19)**
- Count no 25:** Contravening section 4 read with section 8(1) of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 22 and 23)**
- Count no 26:** Contravening section 4 read with section 8(1) of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 22 and 23)**
- Count no 27:** Contravening section 4 read with section 8(1) of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 4, 15, 19 and 20)**

- Count no 28:** Contravening Section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 4, 15, 19 and 20)**
- Count no 29:** Contravening section 4 read with section 8(1) of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 2, 12, 14, 19 and 22)**
- Count no 30:** Contravening Section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 2, 12, 14, 19 and 22)**
- Count no 31:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 2, 12, 14, 19 and 22)**
- Count no 32:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 2, 12, 14, 19 and 22)**
- Count no 33:** contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 2, 12, 14, 19 and 22)**
- Count no 34:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 2, 12, 14, 16, 17 and 22)**
- Count no 35:** Contravening Section 4 (a) (i) read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 2, 12, 14, 16, 17 and 22)**

- Count no 36:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 1, 2, 12, 14, 16, 17 and 22)**
- Count no 37:** Contravening Section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**
- Count no 38:** Contravening section 4(a) read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**
- Count no 39:** Contravening Section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**
- Count no 40:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**
- Count no 41:** Contravening Section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**
- Count no 42:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**
- Count no 43:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act No. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**

**Count no 44:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**Count no 45:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**Count no 46:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**Count no 47:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**Count no 48:** Contravening Section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act No. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**Count no 49:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**Count no 50:** Contravening section 4 read with sections 8(1) and 1 of Prevention of Organised Crime Act, Act no. 121 of 1998: **Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**Count no 51:** Contravention of section 86(1) of Act 1 of 1999 read with the provisions of sections 1, 36, section 38(1)(a)(iii), 38(1)(b), 38(1)(c)(ii), 38(1)(n), 38(2) and 44(2)(d) of the Act: **Failing to comply with the**

**Public Finance Management Act (PFMA) (against accused no 7 only)**

**Count no 52:** Contravention of section 86(1) of Act 1 of 1999 read with the provisions of sections 1, 36, section 38(1)(a)(iii), 38(1)(b), 38(1)(c)(ii), 38(1)(n), 38(2) and 44(2)(d) of the Act: **Failing to comply with the Public Finance Management Act (PFMA) ( against accused no 3 only)**

**Count no 53:** Contravention of section 86(1) of Act 1 of 1999 (read with the provisions of sections 1, 36, section 38(1)(a)(iii), 38(1)(b), 38(1)(c)(ii), 38(1)(n), 38(2) and 44(2)(d) of the Act: **Failing to comply with the Public Finance Management Act (PFMA) (against accused no 3 only)**

**Count no 54:** Contravention of section 86(1) of Act 1 of 1999 (read with the provisions of sections 1, 36, section 38(1)(a)(iii), 38(1)(b), 38(1)(c)(ii), 38(1)(n), 38(2) and 44(2)(d) of the Act: **Failing to comply with the Public Finance Management Act (PFMA) (against accused no 8 only)**

**GENERAL PREAMBLE**

**WHEREAS** section 2 of the Prevention of Organised Crime Act 121 of 1998 (hereinafter referred to as "the Act") defines in Section 2 thereof various criminal offences with regard to racketeering;

**AND WHEREAS** section 1 of the Act defines an "Enterprise" as "...including any individual, partnership, corporation, association, or other juristic person or legal entity, and any union or group of individuals associated in fact, although not a juristic person or legal entity",

**AND WHEREAS** section 1 of the Act defines "a pattern of racketeering activity" as "the planned, ongoing, continuous or repeated participation or involvement in any offence referred to in Schedule 1, of which one of the offences occurred after the commencement of the Act and the last offence occurred within 10 years (excluding any period of imprisonment) after the commission of such prior offence referred to in Schedule 1",

**AND WHEREAS** the Act provides that any person/s who manage(s) the operation or activities of an enterprise and who know[s] or ought reasonably to have known that any person, whilst employed by or associated with that enterprise, conduct or participates in the conduct, directly or indirectly, of such enterprise's affairs through a pattern of racketeering activity, is guilty of a criminal offence,

**AND WHEREAS** the Act provides that a person who manages or operates and who knows or ought reasonably to have know that a person employed by or directly or indirectly involved in the activities or affairs of the Enterprise through a pattern of racketeering is guilty of an offence;

**NOW THEREFORE** the State alleges that Accused nos 1, 2, 3 and 4 at all relevant times were associated in fact and thus formed an Enterprise as defined in Section 1 of the Act and as intended in Section 2(1)(e) and (f);

**NOW THEREFORE** the State alleges that all the Accused and other persons, known and unknown to the State, and directly or indirectly involved therein operated and/or managed the Enterprise and/or participated in the conduct of the affairs of the Enterprise and/or were employed by the Enterprise;

**AND** that such conduct and/or operation and/or management and/or involvement in and/or employment by and/or participation in the conduct of the affairs of the Enterprise and/or were employed by the Enterprise;

**AND** that the offences upon which the Accused are arraigned were committed in order to benefit the Enterprise, its managers, employees and persons directly and indirectly involved therein.

**Now therefore the state alleges that the accused are guilty of the following crimes:**

**Count no 1: Managing an Enterprise through a pattern of racketeering activities. (against accused nos. 1, 2, 3 and 4)**

**IN THAT** prior to and during the period 20 March 2004 until 14 December 2008 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused did wrongfully and unlawfully managed the operations or activities of the Enterprise, and knew or reasonably ought to have known, that any person to wit, all accused, and other persons known and unknown to the State, whilst employed by or associated with that Enterprise, conducted or participated in the conduct, directly or indirectly, of such Enterprise's affairs through a pattern of racketeering activity as set out in **Annexure A**

**Count no 2: Conducting or participating in the Enterprise's affairs through a pattern of racketeering activities. (against all accused**

**IN THAT** the accused prior to but including **20 March 2004 until 14 December 2008**, and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused did wrongfully and unlawfully, whilst managing or employed by or associated with the Enterprise conducted or participated in the conduct directly or indirectly the Enterprise's affairs through a pattern of racketeering activity as set out in **Annexure A**.

**Count no 3: Fraud (against accused nos 1, 7 and 19)**

**IN THAT** upon or about 24 March 2005 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG the accused did unlawfully and with intent to defraud, falsely and to the prejudice, real or potential, of the Department of Health, KwaZulu-Natal gave out to the Department of Health that:

1. the installation of the Oxygen Self Generating Unit at Murchison Hospital, Port Shepstone, KwaZulu-Natal by Intaka Investments (Pty) Ltd was a 'pilot' project;
2. the installation of the Oxygen Self-Generating Unit at Murchison Hospital, Port Shepstone was to the benefit of the Murchison Hospital and the Department of Health, KwaZulu-Natal and/or its patients;
3. the Department of Health was going save money from this installation of the Oxygen Self-Generating Unit.

**Whereas** the accused when they gave out as set out above knew in truth and in actual fact that:



1. the Department of Health was going to lease the Oxygen Self Generating Unit from Intaka Investments (Pty) Ltd;
2. there was no benefit to be gained by the Department of Health from the agreement;
3. the agreement was meant to benefit Intaka Investments (Pty) Ltd; and
4. this was not a pilot a project.

**Count no 4: Fraud (against accused nos 1,3,4, and 19)**

**IN THAT** upon or about 17 November 2006 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG the accused did unlawfully and with intent to defraud, falsely and to the prejudice, real or potential, of the Department of Health and/or its officials, KwaZulu-Natal gave out to the Department of Health and/or its officials that:

1. That the installation of the Oxygen Self Generating Unit at Rietvlei Hospital, KwaZulu-Natal by Intaka Investments (Pty) Ltd was going to reduce costs;
2. the installation of the Oxygen Self-Generation Unit at Rietvlei Hospital was to the benefit of the Rietvlei Hospital and the Department of Health, KwaZulu-Natal and/or its patients;
3. That the Department of Health was going save money from the installation of the Oxygen Self Generating Unit.

**Whereas** the accused when they gave out as set out above knew in truth and in actual fact that:

1. they knew that the Department of Health was not going to reduce costs by leasing the Oxygen Self Generating Unit from Intaka Investments (Pty) Ltd;

2. there was no benefit to be gained by the Department of Health from the agreement;  
and
3. the agreement was meant to benefit Intaka Investments (Pty) Ltd

**Count no 5:            Fraud (against accused no 1, 9, 10, 11 and 19)**

IN THAT during September 2006 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, unlawfully and with the intent to defraud, falsely and to prejudice, real or potential, the Department of Health, KwaZulu-Natal and/or its officials gave out to the Department of Health, KwaZulu-Natal that:

1. the Water Purification Plants quotations were truthful;
2. were independent quotations;
3. the said quotations were prepared by the companies who submitted them for consideration; and
4. those quotations represented a fair and market related prices for the said equipment.

**Whereas** the accused when they gave out as set out above knew in truth and in actual fact that:

1. the said Water Purification Plants quotations were false;
2. were not independent quotations;
3. the prices quoted in the said quotations were not a fair and market related prices for the said equipment; and
4. the prices quoted in the said quotations were inflated.

**Count no 6:            Fraud (against accused nos 3, 4, 5 and 6)**

**IN THAT** during October 2006 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, unlawfully and with the intent to defraud, falsely and to prejudice, real or potential, of the Department of Health, KwaZulu-Natal and/or its officials gave out to the Department of Health, KwaZulu-Natal and/or its officials that:

1. the Water Purification Plants quotations were genuine and independent quotations;
2. the said quotations were prepared by the companies who submitted them for consideration; and
3. the said quotations represented a fair and market related prices for the said equipment.

**Whereas** the accused when they gave out as set out above knew in truth and in actual fact that:

1. the said Water Purification Plants quotations were false;
2. were not independent quotations;
3. the prices quoted in the said quotations were not a fair and market related prices for the said equipment; and
4. the prices quoted in the quotations were inflated.

**Count no 7:            Fraud (against accused nos 1, 3, 4, 5, 6, 8 and 19)**

**IN THAT** during the period between August 2006 and December 2007 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, unlawfully and with intent to defraud, falsely and to the prejudice, real or potential, misrepresented to the KwaZulu-Natal Department of Health and/or its officials that:

1. the Bid Specifications Committee of the Department of Health independently drew and approved the required specifications contained in the tender document published to determine the successful supplier during a tender process;
2. the tender procedure followed was fair, equitable and unbiased; and
3. the competition for the tender was transparent

**Whereas** the accused knew in actual fact that:

1. Intaka Investments was not competing fairly with the other bidders;
2. the used specifications were not independently developed and approved by the Bids Specification Committee; and
3. That Intaka Investments did not comply with the required bid specifications.

**Count no 8:      Fraud (against accused nos 1, 2, 13 and 19)**

**IN THAT** during the period between 27 June 2005 to 05 June 2006 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG the accused did unlawfully and with intent to defraud, falsely and to the prejudice, real or potential, of the Department of Local Government, Traditional Affairs and Housing, KwaZulu-Natal and/or its officials gave out to the Department of Local Government, Traditional Affairs and Housing and/or its officials that:

1. the need for the installation of the Water Purification Plants was urgent;
2. Intaka Investments (Pty) Ltd was a manufacture of the water purification plants; and
3. Intaka Investments (Pty) Ltd was going to establish a manufacturing plant and/or factory in the KwaZulu-Natal province.

**Whereas** the accused when they gave out as set out above knew in truth and in actual fact that:

1. the need for the installation of the Water Purification Plants was not urgent;
2. Intaka Investments (Pty) Ltd was not a manufacturer of the water purification plants;  
and
3. Intaka Investments (Pty) Ltd was not going to establish a manufacturing plant and/or factory the in KwaZulu-Natal province.

**Count no 9:            Corruption (against accused nos 1 and 19)**

**IN THAT** upon or about 27 March 2004 and at or near CAPE TOWN in the district of WESTERN CAPE, the accused unlawfully and corruptly, gave the benefit, to wit an accommodation at Steenberg Hotel to accused nos 2 and 7 which was not legally due to them, upon whom the powers have been conferred and/or who had the duties with the intention to influence them to commit and/or omit any act in relation to their powers and/or duties to further the interests of accused nos 1 and 19.

**Count no 10:            Corruption (against accused nos 2 and 7)**

**IN THAT** upon or about 27 March 2004 and at or near CAPE TOWN in the district of WESTERN CAPE, the accused unlawfully and corruptly, received the benefit, to wit an accommodation at Steenberg Hotel to accused nos 2 and 7 which was not legally due to them, upon whom the powers have been conferred and/or who had the duties with the intention to influence them to commit and/or omit any act in relation to their powers and/or duties to further the interests of accused nos 1 and 19.

**Count no 11:            Corruption (against accused nos 1 and 19)**

IN THAT upon or about 27 March 2004 and at or near CAPE TOWN in the district of WESTERN CAPE, the accused unlawfully and corruptly, gave the benefit, to wit hardwood flooring to accused no 2 which was not legally due to him, upon whom the powers have been conferred and/or who had the duties with the intention to influence him to commit and/or omit any act in relation to his powers and/or duties to further the interests of accused nos 1 and 19.

**Count no 12:            Corruption (against accused no 2)**

IN THAT upon or about 27 March 2004 and at or near CAPE TOWN in the district of WESTERN CAPE, the accused unlawfully and corruptly, received the benefit, to wit hardwood flooring to accused no 2 which was not legally due to him, upon whom the powers have been conferred and/or who had the duties with the intention to influence him to commit and/or omit any act in relation to his powers and/or duties to further the interests of accused nos 1 and 19.

**Count no 13:            Corruption (against accused nos 1 and 19)**

IN THAT upon or about 03 November 2005 and at or near CAPE TOWN in the district of CAPE TOWN, the accused did unlawfully, directly or indirectly give or agree or offer to give the gratification of a ~~tie~~ to accused no 2 in order to influence the said person personally to act in a manner that amounted to the illegal, dishonest, unauthorised, incomplete or biased exercise in carrying out or performance of his duties arising out of a constitutional, statutory, contractual or any legal obligation that amounted to the violation of a legal duty or set of rules, designed to achieve an unjustified result and that amounted to an unauthorised or improper inducement to do or not to do anything, thereby committing an offence of corruption.

**Count no 14:      Corruption (against accused no 2)**

**IN THAT** upon or about 03 November 2005 and at or near CAPE TOWN in the district of CAPE TOWN, the accused, a public officer, directly or indirectly, accepted or offered , or agreed to accept from accused no 1 gratification, to wit ~~tie~~ for the benefit of himself or for the benefit of any other person unknown to the state, in order to act, personally or by influencing other persons to award a tender for the supply of water purification plants to Intaka Investments (Pty ) Ltd, an act that was illegal, dishonest and biased in carrying out or performance of their powers, duties and function arising out of their constitutional, statutory, contractual obligations, which act amounted to the abuse of position of authority, the violation of their legal duty or set of rules which was designed to achieve an unjustified result, thereby committing the offence of corruption.

**Count no 15:      Corruption (against accused no 4)**

**IN THAT** upon or about 24 August 2007, and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused, a public officer, directly or indirectly, accepted or offered , or agreed to accept from accused no 1 and/or accused no 19 a gratification, to wit an amount of five hundred thousand rands (R500, 000.00 ) to be paid into accused no 15's company account, accused no 20's account for the benefit of herself or for the benefit of accused no 15 for the benefit of any other person unknown to the state, in order to act, personally or by influencing other persons to award a tender and/or order for the supply of water purification plants to accused no 19, an act that was illegal, dishonest and biased in carrying out or performance of their powers, duties and function arising out of their constitutional, statutory, contractual obligations, which act amounted to the abuse of position of authority, the violation of their legal duty or set of rules which was designed to achieve an unjustified result, thereby committing the offence of corruption.

**Count no 16:      Corruption (against accused no 4)**

IN THAT during or about 30 August 2007, and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused, a public officer, directly or indirectly, accepted or offered , or agreed to accept from accused no 1 and or accused no 19 gratification, to wit an amount of five hundred thousand rands (R500,000.00) to be paid into accused no 15's company account, accused no 20's account for the benefit of herself or for the benefit of accused no 15 for the benefit of any other person unknown to the state, in order to act, personally or by influencing other persons to award a tender for the supply of water purification plants to accused no 19, an act that was illegal, dishonest and biased in carrying out or performance of their powers, duties and function arising out of their constitutional, statutory, contractual obligations, which act amounted to the abuse of position of authority, the violation of their legal duty or set of rules which was designed to achieve an unjustified result, thereby committing the offence of corruption.

**Count no 17:      Corruption (against accused nos 1 and 19)**

IN THAT upon 20 April 2004 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused did unlawfully, directly or indirectly give or agree or offer to give the gratification of an amount of one million and fifty three thousand rand (R1, 053 000) to accused no 2 in order to influence the said person personally to act in a manner that amounted to the illegal, dishonest, unauthorised, incomplete or biased exercise in carrying out or performance of his duties arising out of a constitutional, statutory, contractual or any legal obligation that amounted to the violation of a legal duty or set of rules, designed to achieve an unjustified result and that amounted to an unauthorised or improper inducement to do or not to do anything, thereby committing an offence of corruption.



**Count no 18:            Corruption (against accused nos 2 and 13)**

IN THAT during the period between March 2004 and December 2007 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused, a public officer, directly or indirectly, accepted or offered , or agreed to accept from accused no 1 and or accused no 19 gratification, to wit an amount of one million and fifty three thousand Rand (1, 053 000) for the benefit of himself or the benefit of any other person unknown to the state, in order to act, personally or by influencing other persons to award a tender for the supply of water purification plants to accused no 19, an act that was illegal, dishonest and biased in carrying out or performance of their powers, duties and function arising out of their constitutional, statutory, contractual obligations, which act amounted to the abuse of position of authority, the violation of their legal duty or set of rules which was designed to achieve an unjustified result, thereby committing the offence of corruption.

**Count no 19:            Corruption (against accused no 1)**

IN THAT upon 20 April 2004 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused did unlawfully, directly or indirectly give or agree or offer to give the gratification to accused no 2 to wit, forming a business partnership **Skyros Medical Suppliers (Pty) Ltd** with accused 9, the wife of accused no 2 in order to influence the said person personally to act in a manner that amounted to the illegal, dishonest, unauthorised, incomplete or biased exercise in carrying out or performance of his duties arising out of a constitutional, statutory, contractual or any legal obligation that amounted to the violation of a legal duty or set of rules, designed to achieve an unjustified result and that amounted to an unauthorised or improper inducement to do or not to do anything, thereby committing an offence of corruption.

**Count no 20:      Corruption: receiving a benefit (against accused no 2)**

IN THAT upon the 20 April 2004 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused, a public officer, directly or indirectly, accepted or offered , or agreed to accept from accused no 1 gratification, to wit a formation of a partnership **Skyros Medical Suppliers (Pty) Ltd** between his wife accused 14 and accused no 1 for the benefit of himself or for the benefit of any other person unknown to the state, in order to act, personally or by influencing other persons to award a tender for the supply of water purification plants to Intaka Holdings (Pty ) Ltd , an act that was illegal, dishonest and biased in carrying out or performance of their powers, duties and function arising out of their constitutional, statutory, contractual obligations, which act amounted to the abuse of position of authority, the violation of their legal duty or set of rules which was designed to achieve an unjustified result, thereby committing the offence of corruption.

**Count no 21:      Corruption: giving a benefit (against accused no 1)**

IN THAT during the period March 2004 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused did unlawfully, directly or indirectly give or agree or offer to give the gratification of an amount of one million rand (R 1, 000 000.00) to accused no 2 in order to influence the said person personally to act in a manner that amounted to the illegal, dishonest, unauthorised, incomplete or biased exercise in carrying out or performance of his duties arising out of a constitutional, statutory, contractual or any legal obligation that amounted to the violation of a legal duty or set of rules, designed to achieve an unjustified result and that amounted to an unauthorised or improper inducement to do or not to do anything, thereby committing an offence of corruption.

**Count no 22:      Corruption (against accused no 2 and 13)**

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**IN THAT** the accused on or about 12 March 2007, and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, unlawfully and intentionally accepted or agreed to accept gratification to wit, One Million Rand (R 1, 000 000) to Sipho Shabalala (Accused no. 2), being a public officer, for the benefit of accused 2 and 13 in order for them to act in a manner that amounted to the illegal, dishonest, and unauthorised carrying out of their powers, duties and functions and/or amounted to the abuse of a position of authority or the violation of a legal duty or a set of rules, which was designed to achieve an unjustified result, thereby committing an offence of corruption.

**Count no 23:      Money laundering (against accused nos 1, 2, 12, 14, 19 and 22)**

**IN THAT** during the month of February 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: a sum of R 1, 053 000 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, entered into an agreement or engaged in an arrangement or transaction with accused no 9 to have an amount of R1, 053 000 deposited into accused no 22's Trust account, which had or was likely to have the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or any interest in which anyone may have in respect thereof, and/or of enabling or assisting accused nos 1 and 2 to avoid prosecution and/or to remove or diminish the said property acquired directly or indirectly as a result of commission of the offence(s).

**Count no 24:      Money Laundering (against accused no 1, 2, 13 and 19)**

**IN THAT** during the month of August 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: a sum of R 1, 000, 000 was proceeds of unlawful activities or that it

formed part of the proceeds of unlawful activities to wit corruption, entered into an agreement or engaged in an arrangement or transaction with accused no 2 to have an amount of R1, 000,000 be handed to him which had or was likely to have the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or any interest in which anyone may have in respect thereof, and/or of enabling or assisting accused nos 1 and 2 to avoid prosecution and/or to remove or diminish the said property acquired directly or indirectly as a result of commission of the offence(s).

**Count no 25:            Money Laundering (against accused nos 2, 12, 14, 22 and 23)**

**IN THAT** upon or about 16 March 2007, and at or near PIETERMARITZBURG , in the district of PIETERMARITZBURG, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: a sum of two hundred thousand rand (R200 000) was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of two hundred thousand (R200 000) be paid into her company accused, no 23's business account ; held with ABSA Bank , and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 26:            Money Laundering (against accused nos 2, 12, 14, 22 and 23)**

**IN THAT** upon or about 23 March 2007, and at or near PIETERMARITZBURG , in the district of PIETERMARITZBURG, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of one hundred thousand rand (R100 000) was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of one hundred

thousand (R100 000) be paid into her company accused, no 23's business account , held with ABSA Bank , and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 27:            Money Laundering (against accused nos 1, 4, 15, 19 and 20)**

**IN THAT** upon or about 24 August 2007, and at or near PIETERMARITZBURG , in the district of PIETERMARITZBURG, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of five hundred thousand rand (R500,000) was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of five hundred thousand rand (R500,000) be paid into his company Rowmoor Investments (Pty) Ltd business account , held with First National Bank , and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 28:            Money Laundering (against accused nos 1, 4, 15, 19 and 20)**

**IN THAT** upon or about 30 August 2007, and at or near PIETERMARITZBURG , in the district of PIETERMARITZBURG, the accused unlawfully, whilst he knew or ought reasonable to have known that certain property, to wit: an amount of five hundred thousand rand (R500 000 ) was proceeds of unlawful activities or that they formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of five hundred thousand rand (R500 000 ) be paid into his company, accused no 20's business account , held with First National Bank, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the

ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 29:      Money Laundering (against accused no 1, 2, 12, 14, 19 and 22)**

**IN THAT** upon the 11 April 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 33,047-96 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R33,047-96 be deposited into Vanquip cc bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 30:      Money Laundering (against accused no 1, 2, 12, 14, 19 and 22)**

**IN THAT** upon or about 11 April 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 113,471-33 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 113,471-33 be deposited into ER Browne Inc's bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 31:      Money Laundering (against accused no 1, 2, 12, 14, 19 and 22)**

**IN THAT** upon or about 24 April 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R33,745-50 was proceeds of unlawful activities or that it

formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R33,745-50 be deposited into Trimborn Agency bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 32:            Money Laundering (against accused no 1, 2, 12, 14, 19 and 22)**

IN THAT upon or about 10 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 16,862-66 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 16,862-66 be deposited into Bell Equipment bank account , and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 33:            Money Laundering (against accused no 1, 2, 12, 14, 19 and 22)**

IN THAT upon or about 23 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R109,758-61 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R109,758-61 be deposited into Yara SA bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.



**Count no 34:**        **Money Laundering** (against accused nos 1, 2, 12, 14, 16, 17 and 22)

**IN THAT** upon or about 30 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 14,546-61 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 14,546-61 be deposited into Bell Equipment's bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 35:**        **Money Laundering** (against accused nos 1, 2, 12, 14, 16, 17 and 22)

**IN THAT** upon or about 30 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 7,292-40 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R7,292-40 be deposited into Natal Arial's bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 36:**        **Money Laundering** (against accused nos 1, 2, 12, 14, 16, 17 and 22)

**IN THAT** upon or about 30 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain





property, to wit: an amount of R 10 506.30 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 10 506.30 be deposited into UCL bank account , and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count no 36: Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12, 16, 17 and 22)**

**IN THAT** upon or about 30 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 10 506.30 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 10 506.30 be deposited into UCL bank account , and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 37: Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**

**IN THAT** upon or about 30 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 7 714.44 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 7 714.44 be deposited into Variquip CC bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 37:     Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12,16, 17 and 22)**

IN THAT upon or about 30 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 7714,44 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 7714,44 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Variquip CC bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 38:             Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**

IN THAT upon or about 30 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 5 768.40 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 5 768.40 be deposited into Gap Chemicals bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 38:     Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12,16, 17 and 22)**

**IN THAT** upon or about 30 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R5,768-40 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R5,768-40 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Gap Chemicals bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 39:            Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**

**IN THAT** upon or about 30 May 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 10 136. 88 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 10 136. 88 be deposited into Community Watch bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 39:    Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12,16, 17 and 22)**

**IN THAT** upon or about 30 May 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 10 136. 88 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 10 136. 88 be made available to Sipho Shabalala and

Beatrice Ntombenhle Shabalala through Community Watch bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 40:            Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**

**IN THAT** upon or about 18 July 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 5 068.44 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 5 068.44 be deposited into Community Watch bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 40:    Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12,16, 17 and 22)**

**IN THAT** upon or about 18 July 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R5 068.44 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R5 068.44 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Community Watch bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 41:      Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**

**IN THAT** upon or about 02 August 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 5 068.44 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 5 068.44 be deposited into Community Watch account , and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 41:      Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12,16, 17 and 22)**

**IN THAT** upon or about 02 August 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R5 068.44 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R5 068.44 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Community Watch bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 42:      Money Laundering (against accused nos 2, 12, 14, 16, 17 and 22)**

**IN THAT** upon or about 02 August 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 37 314.00 was proceeds of unlawful activities or that it

formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 37 314.00 be deposited into Trimborn Agency bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 42:     Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12,16, 17 and 22)**

IN THAT upon or about 02 August 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R37 314.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R37 314.00 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Trimborn Agency bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 43:             Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

IN THAT upon or about 02 August 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R14 140.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R14 140.00 be deposited into Electron Technical Agencies bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 43:     Assisting another to benefit from the proceeds of unlawful activities.(against accused nos 12, 17, 18 and 22)**

**IN THAT** upon or about 02 August 2007, and at or near DURBAN , in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R14 140.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R14 140.00 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Electron Technical Agencies bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 44:             Money Laundering (against accused nos 2, 12,14, 17, 18 and 22)**

**IN THAT** upon or about 09 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 9 553.09 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 9 553.09 be deposited into Variquip CC bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 44:     Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12, 17, 18 and 22)**






**IN THAT** upon or about 09 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R9 553.09 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R9 553.09 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Variquip CC bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 45:      Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**IN THAT** upon or about 09 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 4 000.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 4 000.00 be deposited into Bell Equipment bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence

**Alternative to Count 45:      Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12, 17, 18 and 22)**

**IN THAT** upon or about 09 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 4 000.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 4 000.00 be made available to Sipho Shabalala and Beatrice



Ntombenhle Shabalala through Bell Equipment bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 46:            Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**IN THAT** upon or about 10 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 3 398.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 3 398.00 be deposited into Martin's Plumbing bank account , and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 46:    Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12, 17, 18 and 22)**

**IN THAT** upon or about 10 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 3 398.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 3 398.00 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Martin's Plumbing bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 47:      Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**IN THAT** upon or about 10 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 3 555.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 3 555.00 be deposited into Yara SA bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 47:      Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12, 17, 18 and 22)**

**IN THAT** upon or about 10 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 3 555.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 3 555.00 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Yara SA bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 48:      Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**IN THAT** upon or about 10 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 6 093.99 was proceeds of unlawful activities or that it

formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 6 093.99 be deposited into UCL bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 48:     Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12, 17, 18 and 22)**

**IN THAT** upon or about 10 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 6 093.99 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 6 093.99 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through UCL bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 49:     Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**IN THAT** upon or about 10 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 2 017.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 2 017.00 be deposited into Electro Technical Agencies bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

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**Alternative to Count 49:     Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12, 17, 18 and 22)**

**IN THAT** upon or about 10 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 2 017.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 2 017.00 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Electro Technical Agencies bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 50:             Money Laundering (against accused nos 2, 12, 14, 17, 18 and 22)**

**IN THAT** upon or about 10 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 2 370.00 was proceeds of unlawful activities or that it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 2 370.00 be deposited into Umgeni Water bank account, and that this agreement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Alternative to Count 50:     Assisting another to benefit from the proceeds of unlawful activities. (against accused nos 12, 17, 18 and 22)**

**IN THAT** upon or about 10 July 2007, and at or near DURBAN, in the district of DURBAN, the accused unlawfully assisted, whilst they knew or ought reasonably to have known that certain property, to wit: an amount of R 2 370.00 was proceeds of unlawful activities or that

it formed part of the proceeds of unlawful activities to wit corruption, agreed and arranged that an amount of R 2 370.00 be made available to Sipho Shabalala and Beatrice Ntombenhle Shabalala through Umgeni Water bank account, and that this agreement and arrangement had the effect of concealing or disguising the nature, source, location, disposition or movement of that money or the ownership thereof and/or removing or diminishing such money, which was acquired as a result of the commission of an offence.

**Count no 51:**            **Failing to comply with the Public Finance Management Act (PFMA) (against accused no 7 only)**

**IN THAT** upon or about 24 March 2005 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused unlawfully and wilfully, failed to prevent unauthorised, irregular and/or fruitless and wasteful expenditure or prevent losses resulting from criminal conduct.

**Count no 52:**            **Failing to comply with the Public Finance Management Act (PFMA) (against accused no 3 only)**

**IN THAT** upon or about 17 November 2006 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused unlawfully and wilfully, failed to prevent unauthorised, irregular and/or fruitless and wasteful expenditure or prevent losses resulting from criminal conduct.

**Count no 53:**            **Failing to comply with the Public Finance Management Act (PFMA) (against accused no 3 only)**

**IN THAT** during October 2006 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused unlawfully and wilfully, failed to prevent unauthorised, irregular and/or fruitless and wasteful expenditure or prevent losses resulting from criminal conduct.

**Count no 54:**      **Failing to comply with the Public Finance Management Act**  
**(against accused no 8 only)**

IN THAT upon or about 13 December 2007 and at or near PIETERMARITZBURG in the district of PIETERMARITZBURG, the accused unlawfully and wilfully, failed to prevent unauthorised, irregular and/or fruitless and wasteful expenditure or prevent losses resulting from criminal conduct.

**ADV C.S. MLOTSHWA**  
**ACTING DIRECTOR OF PUBLIC PROSECUTIONS**  
**KWAZULU-NATAL**

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## SUMMARY OF SUBSTANTIAL FACTS IN TERMS OF SECTION 144(3)(a) OF ACT 51 OF 1977

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### A. LEGAL BACKGROUND

The Prevention of Organised Crime Act, Act 121 of 1998 (hereinafter referred to as "the Act") defined in section 2 various criminal offences with regard to racketeering;

The Act defines an "enterprise" as "including any individual, partnership, corporation, association, or other juristic person or legal entity, and any union or group of individuals associated in fact, although not a juristic person or legal entity",

The Act defines the conduct or direct or indirect participation in the conduct of the affairs of an Enterprise's affairs through a pattern of racketeering activity (whilst managing or being employed by or associated with an Enterprise), as a criminal offence,

The Act provides that a person who manages the operations or activities of an Enterprise and who knows or ought reasonably to have known that a person employed by or associated with the Enterprise conducts or participates in the conduct, directly or indirectly of the Enterprise's affairs through a pattern of racketeering, is guilty of an offence;

The State alleges that Accused nos 1, 2, 3 and 4 were, during the relevant period were associated in fact and thus formed an Enterprise as defined in Section 1 of the Act and as intended in Sections 2(1)(e) and (f);

The State alleges that all the accused and other persons known and unknown to the State, were directly or indirectly involved in the Enterprise or conducted or participated in the conduct of the Enterprise through a pattern of racketeering activities and/or managed the

enterprise while knowing or whilst they ought reasonably to have known that the Enterprise was being conducted through a pattern of racketeering activities.

## **B. THE ENTERPRISE**

The Enterprise, by means of its managers, members, employees, associates, and persons involved therein, whether known or unknown, commenced the planned, ongoing, continuous or repeated participation or involvement inter alia the following offences in order to achieve the purpose and aim of the Enterprise: **Fraud, Corruption and Money Laundering**

The management of the Enterprise was conducted by accused nos. 1, 2, 3 and 4.

The members of the Enterprise are inter alia, the following people:

**Accused no 1:** He is the Director at Intaka Investments (Pty) Ltd (accused 19), and a shareholder of Skyros Medical Suppliers (Pty) Ltd. He was a leader and/or co-manager and the controlling mind of the Enterprise, and functioned as its primary decision maker and planner.

**Accused no 2:** He is Shareholder of accused no 23, Blue Serenity and at the time of commission of the alleged offences, employed by the Provincial Department of Treasury as the Head of Department ("HOD") and the accounting officer of the Department for the purposes of the Public Finance Management Act, No 1 of 1999 ("the PFMA"). He was one of the managers of the Enterprise. He together with accused nos 3 and 13 facilitated the approval of deviations from the normal procurement and/or tender processes in order for accused nos 1, 9 and 19 to succeed in obtaining the tender from Department of Local Government, Traditional Affairs and Housing.

**Accused no 3:** She was the Head of Department of Health KwaZulu-Natal, and the accounting officer of the Department for the purposes of the Public Finance Management



Act, no 1 of 1999 ("the PFMA"). She was also a manager of the Enterprise together with accused nos. 1, 2 and 4.

**Accused no 4:** She was the Minister of Health in the KwaZulu-Natal Provincial Government, and was also a manager of the Enterprise together with accused nos 1, 2, and 3. She participated during the commission of counts nos 4, 6, 7, 27 and 28.

**Accused no 5:** He was the Head of the Supply Chain Management ("SCM") Unit, at the Department of Health, and was responsible for procurement in the Department. He participated in the conduct of the Enterprise and was either directly or indirectly involved therein. He participated during the commission of counts nos 6 and 7.

**Accused no 6:** He was the Chief Financial Officer ("CFO") of the Department of Health, and was responsible for all financial matters of the Department. He participated in the conduct of the Enterprise and was either directly or indirectly involved herein. He participated during the commission of counts nos 6 and 7.

**Accused no 7:** He was the Head of the Department of Health during March 2004 to 31 December 2005 and the accounting officer of the Department for the purposes of the Public Finance Management Act, no 1 of 1999 ("the PFMA"). He participated in the conduct of the Enterprise and was either directly or indirectly involved herein and/or was employed by the Enterprise. He participated during the commission of counts nos 3, 10 and 51.

**Accused no 8:** She was the Head of Department of Health KwaZulu-Natal, and the Accounting Officer of the Department for the purposes of the Public Finance Management Act, no 1 of 1999 ("the PFMA"). She participated in the conduct of the Enterprise and was either directly or indirectly involved herein. He participated during the commission of counts nos 7 and 52.

**Accused no 9:** was the director of accused no 19 at the time of the commission of the offences. He is also a Uruguayan national and a long-time associate of accused no 1. He

acted as a manager of Intaka Investments (Pty) Ltd and "Chief Operations Officer, Water and Gas". He participated in the conduct of the Enterprise and was either directly or indirectly involved herein. He participated during the commission of counts nos 4, 5 and 7.

**Accused no 10:** He was employed as Marketing and Sales Manager at an entity trading at the time as Grotto Defrancheschi (Pty) Ltd ("Grotto"). This company specialised in the manufacture of stainless steel tanks, primarily for use in the winemaking industry. However, in 2005 Grotto entered into a business relationship with Intaka in terms of which it co-developed and manufactured water purification plants for Intaka under their trade name of "Wataka". He was responsible for the Intaka business until he resigned in January 2007 to take up employment at accused no 4's business, Imvusa Stainless. He participated in the conduct of the Enterprise and was either directly or indirectly involved herein.

**Accused no 11:** He was employed at Grotto until he was retrenched in July 2006. He subsequently set up his own business styled Imvusa Stainless ("Imvusa"). The business operated through a close corporation called Imvusa Stainless CC; of which he was the sole member at the relevant time. This entity was incorporated on 11 July 2006 and originally named Imvusa Trading 1319. accused no 4 was also subsequently appointed as a member on 26 March 2007. accused no 4, on behalf of Imvusa, supplied one of the quotations which form part of the fraud charge described below. He participated in the conduct of the Enterprise and was either directly or indirectly involved herein.

**Accused no 12:** He was an Attorney, and director of Kuboni and Shezi Attorneys and Conveyancers, accused no 22, in Durban, KwaZulu-Natal. He participated in the conduct of the Enterprise and was either directly or indirectly involved herein. He participated in the conduct of the Enterprise and was either directly or indirectly involved herein. He participated during the commission of offences referred to in count nos 23,25, 26, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42.



**Accused no 13:** He was the Minister of Local Government, Traditional Affairs and Housing in the KwaZulu-Natal Provincial Government. He participated in the conduct of the Enterprise and was either directly or indirectly involved herein. He participated in the conduct of the Enterprise and was either directly or indirectly involved herein. He participated during the commission of offences referred to in count nos 8, 18, 22 and 24.

**Accused no 14:** She is the wife of accused no 2 and a co-directors of Skyros Medical Suppliers (Pty) Ltd, accused no 21 with accused no 1 and a 50% shareholder with her husband, Sipho Shabalala, accused no 2 at Blue Serenity Investment (Pty) Ltd. She participated in the conduct of the Enterprise and was either directly or indirectly involved herein. She participated during the commission of offences referred to in count nos 23, 25, 26, 29, 30, 31, 32, 33, 34, 35, and 36.

**Accused no 15:** He is the sole shareholder of Rowmoor Investments 738 (Pty) Ltd. He was a personal friend of accused no 4. He participated in the conduct of the Enterprise and was either directly or indirectly involved herein. He participated in the conduct of the Enterprise and was either directly or indirectly involved herein. He participated during the commission of offences referred to in count nos 27 and 28.

**Accused nos 16, 17 and 18:** They were also the Directors of accused no 22. They participated in the conduct of the Enterprise and were either directly or indirectly involved herein. They participated in the conduct of the Enterprise and was either directly or indirectly involved herein. They participated during the commission of offences referred to in count nos 34 to 50.

**Accused no 19:** Intaka Investments was incorporated in August 2003 with registration No 2003/021018/07. Although the entity's name has changed from time to time, its registration number has remained the same. It was originally styled Intaka Investments (Pty) Ltd t/a Intaka Tech(Pty) Ltd, by which name it was known at the time of the offence described below. In May 2007 it changed its name to Intaka Tech (Pty) Ltd and in October 2008 it

again changed its name to Intaka Holdings (Pty) Ltd. The entity is currently registered under this name. Accused no 19 was accordingly a **corporate body** as contemplated in **section 332** of the Criminal Procedure Act 51 of 1977 ("the CPA"). The accused is represented by accused no 1.

**Accused no 20:** The accused is a legal entity incorporated in terms of the company laws of the Republic of South Africa with its registered offices situated at No. 1 Thibault Square, Cape Town. The sole shareholder is Lindelihle Mkhwanazi (accused no 15) and was used inter alia for laundering money.

**Accused no 21:** Is a corporate body within the meaning of section 332 of Act 51 of 1977, and is represented by accused nos 1 and 14.

**Accused no 22:** Is a corporate body within the meaning of section 332 of Act 51 of 1977, and is represented by accused nos 12, 16, 17 and 18 was used inter alia for laundering money for the benefit of the Enterprise.

**Accused no 23:** Is a corporate body within the meaning of section 332 of Act 51 of 1977, and is represented by accused nos 12, 16, 17 and 18 was used inter alia for laundering money.

### **THE OBJECTS OF THE ENTERPRISE**

The purpose of the criminal Enterprise were the following:

1. To defraud KwaZulu-Natal government departments;
2. To acquire money for the criminal Enterprise;
3. To enrich the members of the criminal Enterprise; and
4. To maintain the Enterprise and its members out of the proceeds.

1.

During 2000 accused no 1 bought a 50% share of what was called Shamwari Holdings, transforming same into what became known as the Mantis Collection, a group of luxury hotels and lodges, including Shamwari, Sanbona, Steenberg and Jock.

2.

Due to the extent of his investments in the country, accused no 1 and his family were granted permanent residence status in South Africa.

3.

In 2003 accused no 1 was invited to attend a meeting of the President's International Investment Council which took place at the Steenberg Estate in Cape Town.

4.

At the aforementioned meeting accused no 1 met and had discussions with a number of ministers, *inter alia*, the then Minister Phumzile Mlambo-Ngcuka, the then Minister Alec Erwin, Minister Trevor Manuel, Mr Alistair Ruiters and Mr Rafiq Bagus who was then Minister Erwin's Special Advisor.

5.

Subsequent to the said meeting and with the assistance of Mr Rafiq Bagus, accused no 1 made contact with the relevant persons in Department of Trade and Industry, KwaZulu-Natal as well as the KwaZulu-Natal Provincial Government.

6.

Subsequent to having made contact with relevant persons within the KwaZulu-Natal Provincial Government, accused no 1 became aware that the KwaZulu-Natal Province was facing formidable challenges in relation to the provision of drinking water.

7.

Amongst the persons that accused no 1 made contact with in the KwaZulu-Natal Provincial Government was accused no 2 (Sipho Shabalala) who was at the time employed by the Provincial Department of Treasury as the Head of Department (HOD) and the Accounting Officer of the Department for the purposes of the Public Finance Management Act, No 1 of 1999 ("the PFMA") and a member of the African National Congress in the KwaZulu-Natal Province.

8.

During one of the meetings that were held by accused nos 1 and 2 together with other KwaZulu-Natal Provincial Government representatives in 2004, and prior to accused no 1 and accused no 19 doing business with the KwaZulu-Natal Provincial Government, accused no 2 asked for a 'donation' from accused no 1 for the African National Congress. Accused no 1 agreed to pay such a 'donation'.

9.

On the 4 March 2004, accused no 1 sent to accused no 2 an invitation for him and accused no 7 to visit several hospitals in Sao Paulo to view "Watakas" and "Oxyntakas" operating in the public health environment "Watakas" were water purification plants and "Oxyntakas" was the oxygen self-generating equipment.

10.

From 20 to 23 March 2004, accused no 1 and at accused no 19's cost and/or expense organised a fact-finding visit to South America, Sao Paolo and Rio de Janeiro for a delegation from KwaZulu-Natal to see for themselves how both self-generating oxygen units and water purification plants operated.

11.

The KwaZulu-Natal delegation included accused no 2, Dr Moyo-Ndwandwe, Mrs Ngema from Trade and Industry, KwaZulu-Natal, accused no 7, the then KwaZulu-Natal Department of Health and subsequently a Special Advisor to the National Minister of Health and Mr Rafiq Bagus.

12.

Accused no 1 paid for all the expenses which included travelling and accommodation of the delegation referred to in paragraph 11 *supra*, save for the travelling expenses of Mr Rafiq Bagus.

13.

Upon their return from South America on 23 March 2004 the delegation indicated to accused no 1 their interest in purchasing both the water purification plants as well as the self-generating oxygen units and that key persons would be accused nos 2 and 7.

14.

Accused no 1 advised accused no 2 on 24 March 2004 that he had booked accommodation for accused nos 2 and 7 for 27 March 2004 at the Steenberg Hotel, Cape Town. This gratification and/or benefit is the subject matter of count nos 9 and 10.

15.

On the same date, accused no 1 offered accused no 2 a hardwood flooring. This gratification and/or benefit is the subject matter of count nos 11 and 12.

16.

On 14 April 2004, accused no 2 furnished accused no 1 with accused no 14's personal detail for purposes of registering accompany with accused no 1.

17.

On the same date, accused no 2 advised accused no 1 that he had spoken to accused no 7 who had advised him that he, accused no 7 would move on both issues they had discussed by close of business the following day.

18.

On 20 April 2004, less than a month from the date of return from the South American fact-finding visit accused 14's, a wife of accused no 2 and accused no 1 formed and registered a company, accused no 21.

19.

On 11 May 2004, accused no 1 informed accused no 2 that the Oxygen Self Generating Unit "Oxyntaka" was ready for delivery and also advised accused no 2 that the documentation that was given before and after the important trip to Latin America also covered accused no 7's request and included a BEE offer, technical side, comparison and benefits between oxyntaka units and the current supply.



20.

On 21 May 2004, accused no 1 wrote to accused no 2 complaining, about Manana's comment that Professor, accused no 7, for the second time called her regarding the BEE in Oxyntaka.

21.

In the same letter accused no 1 referred no 1 referred to his letter dated 29 March where their commitment as Intaka with the BEE was stated. Accused no 1 further referred to their meetings in the Kingdom, Cape Town, Rio de Janeiro and Sao Paulo, making it clear that due to the potential of the business in the first stage in the Kingdom with 65 existing hospitals and the forecasted construction of 5 more this year, they considered giving 40% of the shareholding in "Oxyntaka" KZN to BEE 40% in order to add value.

22.

In the same letter accused no 1 further referred to his last meeting in the Kingdom at which he insisted in considering important accused nos 2 and 7's holding. Accused no 1 went further stating that he was forced to request accused no 2's guidance to avoid constant and unnecessary little obstacles.

23.

On 25 May 2004, accused no 1 wrote to accused no 2 informing him of the discussions he had with accused no 7 about his commitment to the BEE granting to the "Oxyntaka" KZN newco since the beginning 40% of the company to the BEE pool.

Handwritten signature and initials, possibly "M" and "H", in the bottom right corner.

24.

On 25 February 2005, accused no 2 wrote to accused no1 asking him to let him know what assistance he could give him in order to facilitate further discussions on the water project. Accused no 2 further informed accused no 1 that he was having discussions with the Department of Health regarding additional "Oxyntakas" in KwaZulu-Natal.

25.

On 24 March 2005, accused no 7, the then Head of the Department of Health, KwaZulu-Natal signed a Lease Agreement on behalf of the Department of Health with accused no 1 on behalf of accused no 19. This was referred to as a 'pilot project'.

26.

As per the lease agreement referred to in paragraph 19 *supra*, the Department of Health, KwaZulu-Natal hired an Oxygen Self Generating Unit "Oxyntaka" from accused 19, Intaka Investments (Pty) Ltd, which was to be installed at Murchison Hospital, Port Shepstone at a monthly rental of R9.50 per kilogram of gas plus VAT, commencing on the 8 April 2005 until the last day of March 2010.

27.

As per the lease agreement referred to in paragraphs 19 and 20 *supra*, the Department of Health, KwaZulu-Natal had to pay insurance of about R980,000-00 to accused nos 1 and 19.

28.

The procurement procedures and/or supply chain management processes were not complied with prior to accused no 7 entering into the said lease with accused nos 1 and 19.

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29.

On 06 May 2005, accused no 1 wrote to accused no 9 and John Cerff and copied to Ridrigo Savoi, John, Rafique Bagus, Samora Biko, Siphon Gcabashe, Siphon Shabalala, Dries Portgieter, Yusuf Larney, Cesar da Alexandre and [bhendricks@mweb.co.za](mailto:bhendricks@mweb.co.za) informing them that accused nos 1 and 19 had obtained the patent for the transportable water treatment plant "Wataka" under patent No. 20003/9900 for 20 years, renewable for 10 years.

30.

On 11 May 2005, accused no 2 wrote to accused no 1 informing him that they had started their process to acquire the "Watakas" in the Province and that he would brief him as he had received some responses to the letters he had written.

31.

On 27 June 2005 accused no 1 sent to accused no 2 a letter titled "Wataka- Transportable Water Purification Plant", wherein he quoted an amount of R1, 935, 720 for the supply of one (1) x wataka 50, Transportable water purification plant. The amount was inclusive of VAT and Freight to Greytown.

32.

In the same letter mentioned in paragraph 25 *supra*, accused no 1 stated that he would await accused no 2's decision to issue the purchase order.

33.

On 4 July 2005, accused no 1 wrote to accused no 2 seeking his guidance on how to go forward on with the project for approximately 22 units.



34.

On 5 July 2005 accused no 1 sent to accused no 2 a document titled "Sales Price List "Wataka" Units with various Models.

35.

On the 6 July 2005, Alicia Marcus sent to Ms Khumbu Shabalala a letter entitled "Wataka" stating "Following the discussions between Mr Sipho Shabalala and Dr Gaston Savoi herewith we are enclosing the requested information to be forwarded to your Legal Department in order to prepare the contract".

36.

On 7 July 2005 Alicia Marcus personal Assistant to accused no 1 sent to Ms Khumbu Shabalala an electronic version of the Proposal to Supply Gas Generating Equipment and Water Purification to the KZN Province as per her request. The document was attached to this letter titled "Request for Proposals on Water Equipment" wherein he, *inter alia*, quoted an amount of R1, 965,000 ex works Cape Town excluding VAT for the supply of twenty two (22) x "Wataka" 50's.

37.

Accused no 13, the then MEC for Local Government Traditional Affairs and Housing, received a letter or memorandum on 17 July 2005. This letter or memorandum was dated 15 July 2005. Accused no 13 approved the process of awarding the order for the purchase of 22 water purification plants from accused nos 1 and 19.

38.

The said letter or memorandum referred to in paragraph 32 *supra*, argued, *inter alia*, for a company in Cape Town which had been liaising with Trade and Investment, KwaZulu-Natal

to be selected as a service provider to supply 22 water purification plants at a cost of R43,230,000-00.

39.

The said letter or memorandum further identified and/or recommended that it would be justified to fund the purchase of the said equipment; Water Purification Plants from the Poverty Alleviation Fund.

40.

On 10 October 2005, accused no 2 wrote a memorandum titled **"Proposal to Allocate R43 Million from Poverty Alleviation Fund to Department of Local Government and Traditional Affairs to Purchase Wataka Water Purification Plants"**.

41.

In the letter or memorandum referred to in paragraph 40 *supra*, accused no 2 motivated, *inter alia*, that accused nos 1 and 19 be granted the contract of supplying the 22 water purification plants and that the Poverty Alleviation Fund should be utilized for the purchase of the said water purification plants from accused nos 1 and 19.

42.

Accused no 1 also suggested in the same letter or memorandum that the Department of Local Government, Traditional Affairs and Housing must obtain a waiver of tender requirements approval from the Central Procurement Committee, with assistance from Treasury.

43.

Noteworthy is that the market had never been tested and there was no feasibility study conducted when these motivations for the appointment of accused nos 1 and 19 as service providers to supply the province with water purification plants.

44.

On 16 November 2005 Gumbi-Masilela sent a submission to the Chairperson of the Central Procurement Committee requesting a waiver of the tender procedures for the purchase of mobile purification plants.

45.

On 6 December 2005 accused no 2 sat in a meeting of the Central Procurement Committee and supported the recommendation for a waiver without disclosing, *inter alia*,

45.1

The partnership that existed between accused no 14, his wife, and accused no 1.

45.2

Receipt of gratification or benefit referred to in count nos 9, 10, 11, 12, 13 and 14

46.

On 5 June 2006 the Department of Local Government, Housing and Traditional Affairs issued order number N 642517 to accused no 19, Intaka Investments (Pty) Ltd in the amount of R44, 563, 636. 40 for purchase of 20 water purification plants.

47.

On 9 February 2007 an agreement was entered into between the Department of Local Government, Housing and Traditional Affairs and Intaka Investments, accused 19 for the supply of twenty (20) "wataka" model 50 water purification units in the amount of R44, 563, 636. 40.

48.

Accused no 12 issued on 14 February 2007 a false invoice on accused no 22's letterhead claiming an amount of R1, 053, 000 from accused no 19 for legal fees.

49.

On 12 March 2007 an on line payment by accused no 19 from account number 62106988150 in favour of accused no 22's Standard Bank account number 050871994 in the amount claimed by accused no 22 as per the said false invoice referred to in paragraph 48 *supra*.

50.

Accused no 12 conspired with accused nos 2 and 14 to make payments and launder the amount of R1, 053, 000 from accused nos 1 and 19 to accused nos 2 and 14's company, accused no 23 and/or its creditors.

51.

Accused no 12 and further conspired with accused no 2 and 14 to launder an amount of R606,886-06 which is the subject matter of counts 28 to 34 of the R1, 053, 000 from accused no 19.

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52.

Accused no 12 left accused no 22 practice as an Attorney to become an Advocate of the High Court of South Africa, leaving behind accused nos 16, 17 and 18 as directors of accused no 22.

53.

Accused nos 16, 17 and 18 laundered an amount of R166,642-00 which is a subject matter of count nos 35 to 51.

54.

Accused no 1 had a number of meetings with accused no 3 as the Head of the Department of Health, KwaZulu-Natal and accused no 4 as the Provincial Minister of Health, KwaZulu-Natal.

55.

At some of the meetings that accused no 4 held with accused no 1, she was in the company of accused no 15; her personal friend.

56.

Accused no 5 wrote a memorandum on 6 October 2006 and this memorandum was recommended and approved by accused nos 6 and 3, respectively. The awarding of the tender order was based on that it urgent and emergency basis.

57.

The awarding of the order was preceded by an invitation and submission of three (03) quotations from the following entities, all based in the Western Cape to accused no 3 and/or her personal assistant:



57.1

Invusa Stainless (Pty) Ltd on 02 October 2006 signed by accused no 11;

57.2

Westpro Fluid Handling Systems (Pty) Ltd dated 29 September 2006 but was faxed on the 03 October 2006, signed by Ron Geddes.

58.

At the time when Invusa Stainless (Pty) Ltd submitted its quotation, accused no 11 was the sole member.

59.

At the time when Westpro Fluid Handling Systems (Pty) Ltd submitted its quotation, Ronald Geddes, CJ Scott and D Meagan were active principals.

60.

Neither Invusa Stainless (Pty) Ltd nor Westpro Fluid Handling Systems (Pty) Ltd were registered on the KwaZulu-Natal Provincial Suppliers Data base at the time.

61.

Accused no 1 provided accused no 3 a personal e-mail address with the names and contact details of Invusa Stainless (Pty) Ltd and Westpro Fluid Handling Systems (Pty) Ltd on 25 September 2006.

62.

The Supply Chain Management Unit, whose duty it is to source quotations and procure goods and services, was never involved in this process.

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63.

On 02 October 2006, accused no 19 via Ashleigh Spencer, on behalf of accused 9 sent quotations to Ronald Geddes and accused no 11 of Westpro Fluid Handling Systems (Pty) Ltd and Invusa Stainless (Pty) Ltd respectively. These quotations are identical to those subsequently sent to accused no 3 by accused no 11 and Ronald Geddes.

64.

The Department's Infrastructure Component was not involved in the sourcing of the suitable service provider and was only made aware of the same when instructed by the Head of Department, accused no 3 to issue the order to accused no 19 on 29 November 2006.

65.

On 30 November 2006 an order of two (02) water purification plants "watakas" for Appelbosch and Rietvlei hospitals was made by accused no 3 from accused nos 1 and 19, Intaka Investments (Pty) Ltd, at a cost of R4, 980,000.00 per plant.

66.

The order of the two water purification plants was made without compliance with the procurement requirements.

67.

The plants that were installed at Rietvlei and Appelsbosch were supplied by Grotto (Pty) Ltd to accused nos 1 and 19 at a cost of between R412,000-00 and R475,000-00 per plant and an additional R250,000-00 for transport and commissioning.

68.

On 20 August 2007 accused nos 15 and 20 submitted an invoice for an amount of R500, 000.00 for marketing sale of water purification plant for Appelsbosch Hospital, and payment by accused 19 was made on the 30 August 2007.

69.

On 24 August 2007 accused nos 15 and 20 submitted another invoice for an amount of R500, 000.00 for marketing sale of water purification plant for Rietvlei Hospital and payment by accused 19 was made on the 23 November 2007.

70.

The marketing and sale took place on or prior to 6 October 2006 and accused no 20 was only registered on 26 March 2007. Accused no 20 and/or its sole principal, accused no 15, Lindelihle Mkhwanazi never provided marketing of water and purification plants referred in paragraphs 68 and 69 *supra*.

71.

The only persons who were interacting with accused no 1 prior to the sale of water purifications for Rietvlei and Appelbosch Hospitals were accused no 3 and 4 respectively.

72.

Accused no 19 received a tender awarded for the "On site manufacturing and delivery of bulk medical air and oxygen for clinical use at Provincial Hospitals of the Department of Health, KwaZulu-Natal".



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73.

The awarding of the tender was preceded by the compilation of a Bid Specification Document which was prepared by Westwood of the KwaZulu-Natal Department of Health Infrastructure Development Component.

74.

In developing the Bid Specification Document Westwood used a document prepared by the Western Cape Department of Health as a starting point, making necessary changes to the document so that it was relevant for KwaZulu-Natal Department of Health.

75.

A number of changes were made to the Bid Specification Document referred to in paragraph 68, supra, as a result of collusion between accused nos 1 and 3, who manipulated the process in the interests of accused no 19, whilst shaving off other potential bidders.

76.

The Bid Specification Document was changed based on correspondence between accused nos 1 and 3, prior to the tender being advertised.

77.

The final Bid Specification Document was presented to the Departmental Bid Specification Committee on 30 November 2006 and was reported in the Bid for Ratification.

78.

The Bid for Ratification was approved by accused no 3 on 7 December 2006 shortly after her final personal communication with accused no 1 on 29 November 2006 relating to changes to the Bid Specification Document.

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79.

On 28 February 2007, accused no 5 sought authority from accused no 3 for the formation of a Tender Committee to evaluate the technical aspect of the Bid before submission to the Bid Evaluation Committee.

80.

On 23 March 2007, Halvey of Technical Support Services, Northern Cape Department of Health did a presentation to the Technical Evaluation Committee (TEC). The TEC recommended a full investigation into monthly consumptions of medical oxygen and authority for Halvey to be part of the said investigations.

81.

On 3 May 2007 the Technical Committee comprising of Westwood and Halvey did a presentation to the Bid Evaluation Committee and it was inter alia resolved that sites needed to be prepared and registered with MCC and Bidders need to supply certification that they are ISO 1003 compliant.

82.

The Bid Evaluation Committee recommended that the bid be awarded to accused no 1 and 19 for all hospitals for four (4) phases.

83.

On 28 May 2007, the Bid Appeals Committee did not accept the recommendations of the Bid Evaluation Committee to award the bid to accused nos 1 and 19 and sought clarity on a number of issues including confirmation of compliance with ISO 10083 and clear reasons as to why companies were eliminated.

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84.

Westwood advised the Bid Appeals Committee referred to in paragraph 75 *supra*, that he had determined that oxygen is considered a registered medicine and must be registered with the MCC.

85.

The Bid Evaluation Committee meeting of 29 May 2007 recommended that the matter be referred to the Accounting Officer as the Bid Evaluation Committee was abiding by the decision of the Technical Committee and decision of the Bid Evaluation Committee of the 03 May 2007 that sites needed to be prepared and registered with MCC and Bidders need to supply certification that they are ISO 1003 compliant.

86.

On 4 June 2007, the Bid Appeals Committee was informed by accused no 6 that accused no 5 had submitted a letter that accused nos 1 and 19 did comply with ISO 10083. On the basis of this submission by accused no 6, the Bid Appeals Committee approved that the tender be awarded to accused nos 1 and 19 subject to either the production of the ISO compliance certificate or the provision of a letter detailing the extent of compliance with ISO.

87.

A submission was thereafter prepared and submitted to the Bid Appeals Committee on 25 June 2007, which was approved by accused no 6 on 26 June 2007 and validated on the same day by accused no 3. In terms thereof it was recommended that the tender be awarded to accused no 19 who was "the only bidder who fully complied with the specifications".



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88.

Subsequent to the awarding of the tender to accused nos 1 and 19, an appeal was lodged and an appeal was held on the 20 August 2007. The Chairman of the Bids Appeal Tribunal and/or the members of the Bids Appeal Tribunal did not take into consideration a letter addressed to Mr Francis, Chairman of the Bids Appeal Tribunal, dated 14 August 2007 from one of the Appellants, Myriad Medical.

90.

Accused nos 1 and 19 failed to disclose to the Bids Appeal Tribunal on 20 August 2007 that there were investigations against them by the DSO which had commenced in November 2006.

91.

The Bids Appeal Tribunal recommended to the Minister of Finance and Economic Development, Dr Zweli Mkhize to reject the appeals and confirm the decision of the Department of Health to award the tender to accused nos 1 and 19.

92.

The secretariat of the Bids Appeal Tribunal falls under the Provincial Treasury and the Bids Appeal Tribunal sent their findings to accused no 2 on 23 August 2007 who like accused no 3 had a personal relationship with accused no 1.

93.

On 24 August 2007, accused no 2 sent an sms to accused no 1 advising him as follows, "Amigo hearing went very well. Expecting results early next week".

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94.

Prior to an Agreement being signed between the Department of Health and accused nos 1 and 19, a number of issues arose which were not sufficiently dealt with or finalized by both accused nos 3 and 8.

95.

Concerns in respect of ISO 10083, SABS specifications and registration with the MCC raised by a group of Departmental Anaesthesiologists.

96.

Concerns in respect of MCC registration, Oxygen Peak Flow, a Passive backup system and ISO 10083 compliant, raised by the Departments Legal Services.

97.

On 13 December 2007 an agreement was signed by accused no 8 on behalf of the Department and accused no 9 on behalf of accused nos 1 and 19.

98.

Accused no 8 signed the agreement despite inconsistencies and/or discrepancies between the Bid Specification Document and the Agreement, in that:

99.

The Bid Specification Document Part B provided the bidders with "an average monthly consumption (kg)" for each hospital. Whilst the Agreement referred to "minimum usage", "minimum rental" and "proportional rental".



100.

Schedule to Annexure B to the Agreement to be completed for each hospital consisted of one page only and was not completed reflecting relevant quantities and amounts, at the time the Agreement was signed.

101.

Schedule to Annexure B that has been signed by both parties to the Agreement for Benedictine Hospital has made provision for a "guaranteed minimum usage" per month, whilst the Bid Specification Document states that "All payments shall be made to the contractor, monthly in arrears based on the amount of kilograms consumed".

102.

Accused no 4 was present at the Inkosi Albert Luthuli Hospital on 13 December 2007 when the Agreement was signed.

103.

On 14 December 2007, accused no 4 sent the following sms to accused no 1, **"Doc! The contract was signed yesterday although your guys were not happy with maintenance and few other things buy they were crushed because of what was reflected in the bid document. Next time we'll have to be more careful and perhaps u need to cancel the donation since u r losing on maintenance, what do u suggest? Peggy"**.

104.

The Department of Health has paid AFROX R2, 348,980-00 for the provision of backup from the date of commissioning of the 23 "Oxyntakas" commissioned by accused 19. The backup costs should have been for accused no 19's account.



HD

105.

The KwaZulu-Natal Department of Health approved and advertised a Bid document and entered into an agreement that was manipulated from the outset and that potentially cost the Department approximately R99,843.180-00 over a five year period as a result of the conspiracy between accused nos 1, 3, 4, 5, 6, 8 and 19.

106.

At all times material hereto the accused, together and/or together with other persons known and unknown to the State, acted in furtherance of a common purpose to commit the offences set out in the indictment.



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## LIST OF WITNESSES

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- |     |                           |                               |
|-----|---------------------------|-------------------------------|
| 1.  | Lt Colonel Piet Du Plooy  |                               |
| 2.  | Colonel Jones             |                               |
| 3.  | Trevor White              | PwC                           |
| 4.  | Sibongile Maryline Zungu  | Care of Investigating Officer |
| 5.  | Antony Charles Gerrans    | Care of Investigating Officer |
| 6.  | Charles John Denzil Scott | Care of Investigating Officer |
| 7.  | David Meagan              | Care of Investigating Officer |
| 8.  | Kobus Demeyer Roelofse    | Care of Investigating Officer |
| 9.  | Phillipus Du Toit Haywood | Care of Investigating Officer |
| 10. | Steven Robin Reece        | Care of Investigating Officer |
| 11. | Derek Barrett             | Care of Investigating Officer |
| 12. | Douglas Quinton Van Wyhe  | Care of Investigating Officer |
| 13. | Navinkumar Dookie         | Care of Investigating Officer |
| 14. | Vusi Elvis Mbatha         | Care of Investigating Officer |
| 15. | Zakhele Sibonelo Ndlovu   | Care of Investigating Officer |
| 16. | Thokozani Clement Mbatha  | Care of Investigating Officer |

17.	Derrick Goge	Care of Investigating Officer
18.	Mbuso Mchunu	Care of Investigating Officer
19.	Robin Gareth Westwood	Care of Investigating Officer
20.	Glenda Missing	Care of Investigating Officer
21.	Keith Flack	Care of Investigating Officer
22.	Gerrard Van Der Merwe	Care of Investigating Officer
23.	Busisiwe Ndaba	Care of Investigating Officer
24.	Michael Scott	Care of Investigating Officer
25.	Prasheeka Padayachee	Care of Investigating Officer
26.	Andile Zondo	Care of Investigating Officer
27.	Samantha Cheatle	Care of Investigating Officer
28.	Natasha Pillay	Care of Investigating Officer
29.	Balindile Perseverance Xulu	Care of Investigating Officer
30.	Roger Burns	Care of Investigating Officer
31.	Caesar Alexandra	Care of Investigating Officer
32.	Lucille Welgemoed	Care of Investigating Officer
33.	Vincent Halvey	Care of Investigating Officer
34.	Nozipho Mthembu	Care of Investigating Officer



35.	Reka Deonundhan	Care of Investigating Officer
36.	Malcom Peters	Care of Investigating Officer
37.	Sally Crichton	Care of Investigating Officer
38.	Dave Gooden	Care of Investigating Officer
39.	Van Reenen	Care of Investigating Officer
40.	Sherlene Moonsamy	Care of Investigating Officer
41.	Thomas De Scally	Care of Investigating Officer
42.	Linda Mvuyane	Care of Investigating Officer
43.	Joelene Pandaram	Care of Investigating Officer
44.	WD Khanyile	Care of Investigating Officer
45.	DN Nkosi	Care of Investigating Officer
46.	NP Diadla	Care of Investigating Officer
47.	Masilela - Gumbi	Care of Investigating Officer
48.	Kantha Padayachee	Care of Investigating Officer
49.	Mathew Francis	Care of Investigating Officer
50.	Joelene Pandaram	Care of Investigating Officer
51.	Nozipho Mthembu	Care of Investigating Officer
52.	Magaret Kruger	Care of Investigating Officer
53.	Folani Wilson Khomo	Care of Investigating Officer
54.	Alvina Matsau	Care of Investigating Officer



55.	Victor Fernandez	Care of Investigating Officer
56.	Maxwell Mbongeni Mhlongo	Care of Investigating Officer
57.	Sibongiseni Zungu	Care of Investigating Officer
58.	Doctor A Sewalal	Care of Investigating Officer
59.	Sally Crichton	Care of Investigating Officer
60.	Mr Rampanath	Care of Investigating Officer
61.	Sanjay Singh	Care of Investigating Officer
62.	S C Nduli	Care of Investigating Officer
63.	Heinz Kuhn	Care of Investigating Officer
64.	R Baldie	Care of Investigating Officer
65.	P Ramlall	Care of Investigating Officer
66.	Andre Evett	Care of Investigating Officer
67.	Stefan Oosthuisen	Care of Investigating Officer
68.	Alicia Marcos	Care of Investigating Officer
69.	Raoul de Lange	Care of Investigating Officer
70.	Malcom Peters	Care of Investigating Officer
71.	Reka Deonundhan	Care of Investigating Officer
72.	Michele King	Care of Investigating Officer
73.	Linda Mvuyane	Care of Investigating Officer
74.	John Johnson	Care of Investigating Officer
75.	Michelle Olckers	Care of Investigating Officer
76.	Tracey Lee Dutton/Ward	Care of Investigating Officer



- |                       |                               |
|-----------------------|-------------------------------|
| 77. Michael Erasmus   | Care of Investigating Officer |
| 78. Sarah Drake       | Care of Investigating Officer |
| 79. Adriaan Laubscher | Care of Investigating Officer |



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## **ANNEXURE PDP6.**



To: Du Plooy PJ - Lieutenant Colonel; trevor.white@za.pwc.com; Clarence F. Jones  
 Cc: Cyril S. Mlotshwa  
 Subject: INVITATION TO AN NPA AND INVESTIGATING TEAM MEETING: 23 MARCH 2012  
 AT 10H00, 20TH FLOOR, SOUTHERN LIFE BUILDING

Dear Sirs

This serves to inform you that you are invited to the above mentioned meeting to be held on Friday, 23 March 2012 at 20<sup>th</sup> Floor, Southern Life Building, Durban at 10h00, which will be attended by the National Head of SCCU and the National Head of Organised Crime Unit of the NPA.

1. The investigating officer, Lt Colonel Du Plooy is requested to prepare the following:
  - a) Summary of the investigating diary;
  - b) List of exhibits that were seized and/or handed to the investigating team from different government departments and chain statements.
2. The forensic investigator, Mr White is requested to prepare the following:
  - a) Busisiwe Nyembezi companies flow of funds
  - b) Rowmoor funds flow analysis
  - c) Intaka flow of funds
3. Colonel Jones to submit a report on the Mammogram case indicating amongst other things why the case was withdrawn and a complete docket.

Regards

Adv N. Donywa

19.03.2012  
 LEEANN P. AN

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## **ANNEXURE PDP7.**

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

Privaatsak/Private Bag

Posbus/Post Office Box: 55062 Snell Parade Durban 4075

Verwysing Reference	Durban Central Cas 1538/01/2009
Navrae Enquiries	Lt. Col. P DU PLOOY
Telefoon Telephone	(031) 327 8819
Faksnommer Fax number	(031) 327 8815

THE COMMANDER  
COMMERCIAL CRIME, DURBAN  
DIRECTORATE FOR PRIORITY CRIME  
INVESTIGATIONS

2019-11-27

(2012/08/21)

The National Co-Ordinator

ACTT

Directorate for Priority Crime Investigations

Att: Brig K Moodley

**PROGRESS REPORT - PROJECT X CROSS: DURBAN CENTRAL CAS 1538/01/2009**

1. The Mercury contacted me on Thursday the 16<sup>th</sup> of August 2012 wanting to know if charges were withdrawn against certain accused. They further informed me that they were in possession of withdrawal letters issued to the accused by the Acting Director of Public Prosecutions in KZN.
2. It was reported in News papers and other press stating that the Acting Director of Public Prosecutions in KZN has issued letters of withdrawn against 6 accused in the above mentioned project. The NPA released a press statement on the following day indicating such.
3. Charges were apparently withdrawn against the following accused:
  - P Nkonyeni
  - M Mabuyakhulu
  - L Mkwanaazi
  - N Phindela
  - J Thusi
  - I Blose
4. On hearing the above I contacted Adv Nledile Dunywa the Prosecutor in this matter and he informed me that he was not aware of this decision and do not have any formal instructions in this regard.
5. On the 23<sup>rd</sup> of March 2012 I and the forensic auditor T White were summoned to a meeting by Lawrence the head of the Commercial Crimes Prosecutions. He in general discussed this matter and informed us that he is reviewing the case.
6. I informed him that he should notify the DPCI in writing of any decision. He was accompanied by Anthony Mosing the Head of Organized Crime Prosecutions.
7. To date the DPCI were not formally informed of any decisions taken in this regard.

8. The involvement of the individual accused were as follows:

- P Nkonyeni was the MEC for the Department of Health. She had interaction with Dr Savoi from the Intaka Group based in Cape Town. She was the girlfriend of L Mkwanzazi at the time. Mkwanzazi in turn received R1 million in payment for no apparent reason. The State alleges that they had a corrupt relationship with Savoi at the time of their respective dealings.
- M Mabuyakhulu was the Treasurer for the ANC as well as the MEC for Local Government. He played a role in the process of procurement and was informed of a possible donation from Savoi to the ANC. Although the R1 053 000 were paid to Sipho Shabalala via the Trust account of S Khuboni he maintained that he did not receive the donation on behalf of the ANC. Evidence showed that the cash was utilized for Shabalala's benefit. These monies were paid via a false invoice generated by Khuboni and forwarded to Savoi. This was done to hide the corrupt payment.
- Thusi, Phindela and Blose worked as Attorneys for S Skhuboni and took over his practice when he became an Advocate. They continued with payment to Shabalala's creditors on instructions from Shabalala and his wife. They controlled the Trust account of Khuboni Attorney's and did not want to forward any info to the Prosecutors or investigators. No Trust Account records are available for this account either from Khuboni or them.

9. The above accused was all charged with Fraud, Corruption and Racketeering as indicated on the Indictment attached hereto for your reference.

10. The suspended National Director of Public Prosecutions Adv Menzi Simelani's took month's to institute prosecution and issue a Racketeering certificate. It would therefore not be possible to discuss all the evidence and events that led to initial decisions made to prosecute.

11. I had no dealings with the current Acting DPP or the Acting NDPP in terms of any decisions made in this matter. All the previous decisions were made in consultation with the then acting DPP, Adv S Mlotshwa.

12. It is still not clear what the current state of prosecutions is.

13. Kind Regards.

\_\_\_\_\_  
Lt.Col.

**PJ Du Plooy : ACTT Durban**

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