



EXHIBIT X1

**SUPPLEMENTARY
AFFIDAVIT & ANNEXURE**

OF

MXOLISI DUKOANA



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

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**IN THE COMMISSION ON STATE CAPTURE
HELD IN JOHANNESBURG**

EVIDENCE OF:

MXOLISI DUKOANA

SUPPLEMENTARY AFFIDAVIT/STATEMENT

I, the undersigned,



do hereby make oath and say:

A. INTRODUCTION

1. I am a deponent to this affidavit/statement and I have been advised that it is apt to supplement my statement to reflect certain material aspects not addressed in my founding statement.

[Handwritten signature]

[Handwritten signature]

2. The facts set out in this affidavit/statement are within my personal knowledge and belief, unless stated otherwise or the context of what I declare makes the contrary apparent, and are to the best of my knowledge and belief both true and correct.
3. To the extent that I make submissions of a legal nature in this affidavit/statement, I do so on the basis of the counsel obtained in the course of preparation of this affidavit/statement from my legal representatives, and which counsel I verily accept to be the correct legal position.
4. Before I deal with the amendments, it is apt that I clarify something in relation to my appearance at this Commission. My appearance at this Commission does not in terms of the ANC Constitution constitutes an act of misconduct as per clause 25.17. For ease of reference, clause 25.17 details acts of misconduct in the following terms:

"Acts of misconduct

25.17 The following conduct by a member, officer bearer or public representative shall constitute misconduct in respect of which disciplinary proceedings may be invoked and instituted against him or her:

- 25.17.1 Conviction in a court of law and being sentenced to a term of imprisonment without the option of a fine, for any serious non-political offence;
- 25.17.2 Conviction in a court of law for any serious non-political offence;



- 25.17.3 Failing, refusing or neglecting to execute or comply with any ANC Policy, Standing Order, Rule, Regulation or Resolution adopted or made in terms of this Constitution or breaching the provisions of this Constitution;
- 25.17.4 Behaving in a manner or making any utterance which brings or could bring or has the potential to bring or as a consequence thereof brings the ANC into disrepute;
- 25.17.5 Sowing racism, sexism, tribal chauvinism, religious and political intolerance, regionalism or any other form of discrimination;
- 25.17.6 Behaving in a manner which provokes or is likely to provoke or has the potential to provoke division or impact negatively on the unity of the ANC;
- 25.17.7 Engaging in sexual or physical abuse of women or children or abuse of office to obtain sexual or any other undue advantage from members or others;
- 25.17.8 Abuse of elected or employed office in the Organisation or in the State to obtain any direct or indirect undue advantage or enrichment;
- 25.17.9 Participating in any organised factional activity that goes beyond the recognised norms of free debate inside the ANC and which threatens its unity;
- 25.17.10 Publishing and/or distributing any media publication without authorisation which purports to be the view of any organised grouping, faction or tendency within the ANC;

- 25.17.11 Undemining the respect for or impeding the functioning of any structure or committee of the ANC;
- 25.17.12 Joining or supporting a political organisation or party, other than an organisation in alliance with the ANC, in a manner contrary to the aims, objectives and policy of the ANC;
- 25.17.13 Standing in an election for local, provincial or national government or acting as the election agent or canvasser of a person standing in such election for any political party and in opposition to a candidate duly endorsed by the NEC or PEC;
- 25.17.14 Misappropriating funds of the ANC or destroying its property;
- 25.17.15 Fighting, assaulting another member or behaving in a disorderly or unruly manner at ANC meetings, assemblies or gatherings and/or disrupting meetings and interfering with the orderly functioning of the ANC;
- 25.17.16 Prejudicing the integrity or repute of the Organisation, its personnel or its operational capacity by:
- 25.17.16.1 impeding the activities of the Organisation;
 - 25.17.16.2 creating divisions within its ranks or membership;



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25.17.16.3 doing any other act which undermines the ANC's effectiveness as an organisation; or

25.17.16.4 acting on behalf of or in collaboration with:

1. counter-revolutionary forces;
2. a political organisation or party other than an organisation or party in alliance with the ANC in a manner contrary to the aims, policies and objectives of the ANC;
3. intelligence or the security services of other countries; or
4. any person or group who seriously interferes with the work of the Organisation or prevents it from fulfilling its mission and objectives.

25.17.17 Being convicted in a court of law for the offence of fraud, theft of money, corruption, money-laundering, racketeering or any other act of financial impropriety;

25.17.18 Soliciting or accepting any bribe for performing or not performing any task pertaining to or in connection with the ANC;

25.17.19. In the case of a public representative, breaching his or contract of deployment concluded with the NEC;

25.17.20. In the case of a member of an ANC Caucus, failing, refusing or neglecting to carry out or execute an instruction or mandate of such caucus; and

25.17.21. In the case of a representative in disciplinary proceedings, charging or soliciting a fee for services rendered or levying a disbursement for associated costs when representing a charged member, appellant or review applicant, as the case may be.

25.18. Notwithstanding the discretion afforded to a Disciplinary Committee in terms of Rules 25.21 and 25.22 below, any member, office bearer or public representative found guilty by a Disciplinary Committee of any act of misconduct referred to in Rule 25.17.12, 25.17.13 or 25.17.17 above shall be ineligible to be or remain as a member of the ANC and shall be expelled from the Organisation."

5. In the circumstances, my appearance at the Commission is consistent with what is expected of a disciplined member of the ANC who wants good for his or her country.

6. I will deal with the following in aspects in the following sequence:

6.1. Amendments and additions to my founding affidavit;

6.2. The status of the Anton Piller application;

6.3. Invitation to Oakbay Offices; and

6.4. Extracts of the new book Gangster State by Pieter-Louis Myburgh.

B. AMENDMENTS AND ADDITIONS

Amendments

7. **Ad para 38:** the last sentence should read: "As soon as Tony left to make a copy, Magashule then intimated to me that he was going to be involved in a business relationship with Tony".
8. **Ad para 47** the airline was SA Express and not SA Airlink.
9. **Ad para 63,** it must read as follows: "The meeting in issue took in February 2012 and I am not certain about the dates but I was dismissed on 22 February 2012 after the visit with Magashule to the Gupta compound".
10. **Ad para 67** the first sentence must read: "I was also startled that the Premier of the province brought me to the Gupta compound with a sole intention of corruptly and unlawfully advancing commercial interests of the Guptas".
11. **Ad para 71,** the correct date is be 25 October 2018.



12. **Ad para 87**, the correct date is 22 February 2012.
13. **Ad para 93**, it must read MEC for Economic Development and Tourism.

Additions

14. **Ad para 87:**

On 22 February 2012, whilst in the meeting I received a call from Ms Elsabe Rockman who was the Director-General of the Free State Province indicating to me that the Premier wanted to talk to me. Instead, the person who spoke to me was Ms Mamiki Qabathe who informed me that at eleven o'clock (11:00), the Premier would make an announcement on the cabinet reshuffle. Ms Qabathe went on to state to me that the Premier has decided to drop me and replace me with a female in his endeavor to advance empowerment of women in the province.

Following the call, I excused myself from the meeting and flew back to Bloemfontein. On arrival, my VIP protection persons received me and whilst in the car to the office, it was breaking news that indeed I have been relieved of my responsibilities as MEC.

~~SM~~

SM

On arrival at the office, I found emotional support staff some of whom were in tears. Ms Nono Malgas then told me that Ms Qabathe had addressed them concerning the developments.

I tried to gain access to my office in order to remove my personal belongings in particular my books and the office was locked. I called Ms Qabathe concerning access to my office and she advised me that all my belongings would be couriered to my residence.

C. THE STATUS OF THE ANTON PILLER APPLICATION

15. On 25 October 2018, the Anton Piller application was heard by the Acting Deputy Judge President, Judge C van Zyl. The reason for the application was to preserve documents for purposes of tendering evidence at the Commission. After hearing the matter, the Learned Judge intimated that she would prioritise this application and the judgment thereof.
16. My legal representatives and I had hoped that at least before the Commission adjourned for 2018, my statement would be ready and supported by requisite evidence as detailed in the application.
17. On 13 February 2019, my legal representative caused a letter to be addressed to the Learned Judge asking for the date on which the judgment would be handed

down. I annex hereto marked "DMS 1" a copy of the letter addressed to the judge. On 14 February 2019, an email confirming receipt of the said letter was received from the office of the Judge President of Free State confirming that the letter was referred to the judge concerned. For ease of reference, I annex hereto marked "DMS 2" a copy of the said email.

18. I was scheduled to appear at the Commission on 25 March 2019, and I could not because the documents I had asked for had not been furnished to my legal team. That caused my appearance to be postponed to 5 April 2019. I believe my legal team also met with the Deputy Chief Justice and the legal team of the Commission to devise ways and means of assisting me to get access to documents needed for my testimony.
19. My legal team was at the Commission to ask for postponement on 25 March 2019. On the same day, my legal team addressed a letter to the Judge President of Free State to intervene. For ease of reference, I annex hereto marked "DMS 3" a copy of the letter dated 25 March 2019.
20. On 27 March 2019, my legal team, the Commission's legal team and investigators attended to the Premier's offices in Bloemfontein for purposes of getting documents not furnished. For ease of reference, I annex hereto marked "DMS 4" a copy from the Premier's office detailing the status of the documents to be furnished. The deadline for furnishing my legal team with documents was 29 March 2019.

 SM

21. Whilst in Bloemfontein on 27 March 2019, my attorney received a telephone call from his correspondent attorney stating that the judgment is to be handed down on 1 April 2019.
22. On 1 April 2019, my legal team was meeting the Chair of the Commission together with the members of the Commission's legal team and investigators to brief the Chairperson about the visit to Premier's office. In that regard, my attorney's correspondent went to court to note the judgment.
23. The correspondent attorney informed my attorney that only an order was made and the judgment was to follow by 5 April 2019. I annex hereto a copy of the said order marked "DMS 5".
24. I reiterate that I am not in possession of all the documents necessary for purposes of my testimony.
25. My journey to this Commission was littered with obstacles as detailed above and I wish to thank the Chairperson, the commission's legal team, investigators and my legal team for assisting me in getting some of the documents. Their commitment to continue to get documents continues.



D. INVITATION TO OAKBAY OFFICES

26. In 2014, on the date I cannot recall, I was called by Tony Gupta to meet him at his office at Oakbay, Kathreen Street, Sandton. He intimated to me that he wanted us to meet and reflect. Out of curiosity, I attended to the said offices and I met Tony.
27. Tony said that he wanted us to meet so that he could understand what plans do I have for future. I indicated to him that my preoccupation was to spend time with my family to compensate for all the activism that kept me away from my family and children. He indicated that should I need anything, I should not hesitate to approach him.
28. The meeting did not last longer than thirty minutes. Much of the time we were exchanging pleasantries and he reminded me that he had advised me not to contest Magashule for 2012 ANC elective conference. At the end of the meeting, Tony insisted that he had to compensate me for my traveling expenses and he gave me an amount of R 10000.00 (ten thousand rands) which I accepted. At the time (2014), I was neither holding any position in government nor in the ANC.



E. GANGSTER STATE BY PIETER-LOUIS MYBURGH

29. On 31 March 2019, a new book¹ graced the shelves of bookstores of this land. I had the liberty to read the book and, in my view, the book serves as a sterling contribution to what this Commission has to unravel in conjunction with the law enforcement agencies in the country.
30. I do not consider the book to contain "FAKE NEWS OR FABRICATION". The author interviewed me several times and I am familiar with some of the characters and alleged corrupt activities narrated in the book.
31. By author's admission, this book is a partial account of what is indeed to follow in future about Magashule's activities in capturing the Free State Government and municipalities, including state entities in the province.

¹ Gangster State: Unravelling Ace Magashule's Web of Capture. Penguin Books 2019

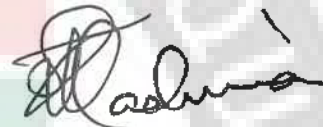


32. This is all I have to say in the circumstances.



MXOLISI DUKOANA

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at SANDTON on this the 4th day of ~~MARCH~~ APRIL 2019.



COMMISSIONER OF OATHS

TAKALANI MADIMA (S.C)
Practising Advocate
AFSA JHB Chambers
Commissioner of Oaths Ex Officio
Grindrod Tower, 8A Protea Place
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EG COOPER MAJIEDT INC.

ATTORNEYS · NOTARIES · CONVEYANCERS · ADMINISTRATORS OF ESTATES · LABOUR LAWYERS
PROKUREURS · NOTARISSE · AKTEBESORERS · BOEDIEL BEREDDERAARS · ARBEIDSPROKUREURS

Our Reference | Ons Verwysing: MHG/m/MB6336

Your Reference | U Verwysing:

13/02/2019

Die Griffier
Hoë Hof
BLOEMFONTEIN

Waarde heer / dame

X DUKWANA / PREMIER OF THE FREE STATE & 1 ANDER
SAAKNOMMER: 4909/2018

Ons verwys na bovermelde aangeleentheid.

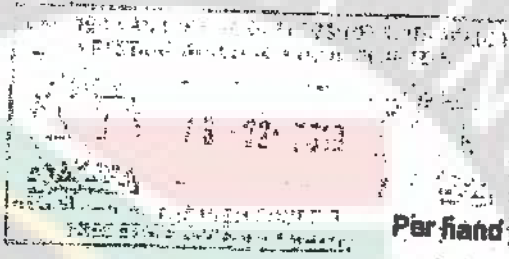
Ons bevestig dat hierdie aangeleentheid aangehoor was op 25 Oktober 2018 en is uitspraak hierin voorbehou, welke uitspraak ons tot op hede nog nie ontvang het nie. Die voorsittende Agbare Regter was Van Zyl.

Ons sien uit na u vriendelike beriggewing.

Die lms
EG COOPER MAJIEDT
Per: M H GERTENBACH
E-mail | E-pos: riana@eg.co.za
Direct Fax / Direkte Faks: 0866 020 369

PLEASE TAKE NOTE - Our office will never change or amend our bank account banking details via e-mail or other electronic forum. Please contact our office for formal verification should you receive any correspondence of such nature. You should not act on any e-mail purported from us changing our bank details, but kindly inform us immediately.

NEEM ASSEBLIEF KENNIS - Ons kantore sal nooit ons bankrekeningbesonderhede wysig of verander deur e-pos of enige ander elektroniese beriggewing nie. Kontak ons kantore asseblief vir formele verifikasie indien u enige korrespondensie van hierdie aard ontvang. U word aangeraai om nie op die e-pos of elektroniese kommunikasie direk te reageer nie, maar wêre verzoek om ons oortuigend daarvan in kennis te stel asseblief.



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Riana Nel

From: Wilma Mostert <WMostert@judiciary.org.za>
Sent: 14 February 2019 03:54 PM
To: Riana Nel
Subject: 4909/2018 - X Dukwana v Premier FS & another - 25 Oct 2018
Attachments: EG Cooper - Van Zyl J - outstanding judgment.pdf

MHG

Dear Mr Gertenbach

Your letter dated 13 February 2019 with reference MHG/rn/MB6336, has reference.

Kindly note that your abovementioned letter was given to the Judge concerned on 14 February 2019 (today).

Regards




Wilma Mostert
 Judge's Secretary
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 Tel: +27 51 406 8100
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[Handwritten signature]

SM



Mashala • Komane • Masekela Inc.
ATTORNEYS

THE REGISTRAR
HIGH COURT
BLOEMFONTEIN

OUR REF: MR MASHALA/MD0024/18

YOUR REF: W MOSTERT



DATE: 25 MARCH 2019



Dear Judge President

RE: DUKWANA V PREMIER OF FREE STATE AND OTHERS (Case No: 4909/18)

1. We act for and on behalf of the first and second respondents in the matter in the subject of this correspondence. Our correspondents are EG KOOPER MAJIEDT Inc.
2. On 25 October 2018, an Anton Piller application between the parties was heard by Van Zyl J (Acting Deputy Judge President). The reason for the application was to preserve documents for the purposes of tendering evidence by Mr. Dukwana in the Commission on State Capture before the Deputy Chief Justice ("the DCJ").
3. On 13 February 2019, our correspondent addressed a letter to the Learned Judge asking for the date on which the judgment would be handed down. To date, there is no response to the said letter which for ease of reference is attached marked "A".
4. On 25 March 2019, Mr. Dukwana was scheduled to testify at the Commission and due to outstanding evidence, Mr. Dukwana's testimony has been postponed for 5 April 2019. Further, the DCJ has since spoken to the Premier of Free State who has made an undertaking that the documents sought by Mr.

Dukwana should be furnished to him. Consequently, the DCJ has directed the Commission's Legal Team, Mr. Dukwana together with us as his legal representatives attend to the Premier's Office on 27 March 2019 to be furnished with the outstanding documents.

5. The DCJ's directive at the Commission has the effect of rendering the pending judgment nugatory, however, on behalf of Mr. Dukwana, we are of the considered view that an order by the court might still help in assisting the commission to get the information required to execute its mandate.
6. We thank the Court in advance for its assistance in this regard.

Yours sincerely

MR S M MASHALA
MASHALA KOMANE MASEKELA INC.

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Directors: Stanley Mokatsa Mashala (BA, LLB, LLM); Mohlago Presidah Masekela (LLB)
Professional Assistant: Kamogelo Nkwiniika (LLB)
Office Manager: Portia Malapane

Mashala Komane Masekela t/a MKM Inc




STATUS OF AVAILABILITY OF REQUESTED INFORMATION

INFORMATION REQUIRED	STATUS
1. Approved submission of visit to India ✓	A schedule, indicating trips by Mr Dukwana, arranged by the Travel Agent, Hambanathi, is enclosed herewith as Annexure A. The payment documents relating to the trips to India, which may include the approved submission, are currently being traced.
2. Approved submission of visit to New York	Copies of the documents currently available are attached hereto as Annexure B. The payment documents, which may include the approved submission for the trip to the USA, are currently being traced.
3. Hard copy of the Premier's diary	No diary, other than which was already provided, could be found. ✓
4. Laptop used by Mr Dukwana during his term of office	The 2013 Asset Register of the Office of the MEC is attached herewith as Annexure C. It indicates what items could be verified during an asset count and which not. It appears that the laptop, which the MEC used, could not be verified. Efforts to recover the specific laptop is still underway.
5. Diary and travelling records of Mr Dukwana	No physical diary could be found. Annexure A indicates which travel was arranged by the service provider. The advance travel & subsistence payments for international visits are indicated on the printout attached as Annexure D.
6. Cellphone records of 0825559981	Correspondence exchanged between Mr AJ Venter and your office refers.
7. Presentation to Executive Council on ICT Hub	No record could be found that such a presentation was made to the Executive Council prior to the presentation on the City of Tomorrow Masterplan.



**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Case No: 4909/2018

Before the Honourable Judge C VAN ZYL

On the 1st day of APRIL 2019

In the matter between:

MXOLISI DUKWANA Applicant

and

PREMIER OF THE FREE STATE 1st Respondent

**MEC OF ECONOMIC DEVELOPMENT,
TOURISM & ENVIRONMENTAL AFFAIRS** 2nd Respondent

Having considered the notice of motion and the other documents filed of record and having heard Counsel for applicant,

IT IS ORDERED THAT:

1. The rule *nisi* is discharged, with costs, which costs include the reserved costs of 1 October 2018 and 18 October 2018 respectively.

BY ORDER OF THIS COURT


COURT REGISTRAR

HILL, McHARDY & HERBST INC

www.hillmchardy.com Bloemfontein 9300

