

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA****CASE NO:**

In the matter between:

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

Applicant

and

**JACOB GEDLEYIHLEKISA ZUMA**

Respondent

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**NOTICE OF MOTION**

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**TAKE NOTICE THAT** on a date to be determined by the Registrar of the above Honourable Court the Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, the applicant herein, intends to apply on an urgent basis to the above Honourable Court on the basis of this Honourable Court's exclusive jurisdiction under section 167(4)(e) of the Constitution, alternatively under section 167(6)(a) of the Constitution and rule 18 of the Rules of the above Honourable Court, for an order in the following terms:

- 1 In terms of rule 12 of the Rules of this Honourable Court leave is hereby granted that this application be heard as one of urgency, the rules and forms

of service dispensed with in accordance with any directions that the Chief Justice may issue.

- 2 In terms of section 172(1)(a) of the Constitution it is declared that:
  - 2.1 Mr Jacob Gedleyihlekisa Zuma (“**the respondent**”), in his capacity as the former President and head of the national executive of the Republic of South Africa, is constitutionally obliged to appear before the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (“**the Commission**”) and account by giving evidence and answering the allegations that concern his alleged failure as President and head of the national executive to fulfil his constitutional obligations, in terms of sections 1(d), 83(b), 83(c), 96 and 182(1)(c) of the Constitution and his oath of office.
  - 2.2 The respondent is obliged to comply with any summons signed and issued by the Secretary of the Commission served on the respondent, in accordance with section 3(2) of the Commissions Act 8 of 1947.
  - 2.3 The respondent’s conduct in excusing himself and leaving the venue of the Commission hearing on 19 November 2020 without the permission of the Chairperson is unlawful and breaches section 3(1) of the Commissions Act 8 of 1947.
  - 2.4 The respondent’s failure to appear before the Commission on 20 November 2020 in accordance with the summons issued and

served on him, without seeking and/or obtaining the permission of the Chairperson, is unlawful and breaches section 3(1) of the Commissions Act.

- 3 The respondent is ordered to comply with the summons issued by the Secretary of the Commission directing him to appear before the Commission on 18 to 22 January 2021 (both dates inclusive) and 15 February 2021 to 19 February 2021 (both dates inclusive) at 10h00 on each day, unless directed otherwise by the Chairperson.
- 4 It is ordered that, when appearing before the Commission and after he has taken the oath or affirmation, the respondent shall answer any questions put to him by the designated Evidence Leader(s) and the Chairperson of the Commission, subject to the privilege against self-incrimination, and may not rely on the right to remain silent.
- 5 Unless excused by the Chairperson, the respondent is ordered to remain in attendance at the Commission from 10h00 on 18 to 22 January 2021 (both dates inclusive) and from 10h00 on 15 to 19 February 2021 (both dates inclusive), or any other date, in respect of which a summons has been issued and served on the respondent.
- 6 The respondent is ordered to comply with the Directives issued by the Chairperson of the Commission under regulation 10.6 of the Regulations of the Commission ("**the Regulations**") on 27 August 2020 and 08 September 2020, and any further directives under regulation 10.6, by submitting his affidavits on the matters contemplated in those directives, by no later than 10 January 2021.

- 7 The respondent is ordered to comply with any directives that the Chairperson may validly issue in the future against the respondent in respect of matters being investigated by the Commission.
- 8 The respondent is ordered to pay costs of this application, on the scale of attorney and own client.

**TAKE NOTICE FURTHER THAT**, if the respondent intends to oppose the relief sought in this application he is required, given the urgency of the matter, within five (5) days of the date of this notice of motion, to notify the Registrar of this Court and the applicant in writing of his intention to do so, and further that he is required to appoint in such notification an address at which he will accept notice and service of all documents in these proceedings.

**TAKE NOTICE FURTHER THAT** the Court is requested to issue directions to the parties, should the respondent give notice to oppose, regarding:

- (a) the filing of answering and replying affidavits;
- (b) the filing of written submissions;
- (c) any further matters it may require to be addressed by the parties.

**TAKE NOTICE FURTHER THAT** the applicant has appointed the State Attorney, Johannesburg, as his attorney of record and his address, as set out below, as the address where he will accept notice and service of all documents in these proceedings.

**TAKE NOTICE FURTHER THAT** the accompanying affidavit of the applicant will be used in support of this application.

DATED AT JOHANNESBURG ON THIS 3<sup>rd</sup> DAY OF DECEMBER 2020

**STATE ATTORNEY, JOHANNESBURG**

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10th Floor North State Building  
Johannesburg

Per: Mr Johan van Schalkwyk

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Ref: 1544/18/P45

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**TO: THE REGISTRAR OF THE CONSTITUTIONAL COURT**  
Private Bag X1  
Constitutional Hill  
Braamfontein, 2017  
Johannesburg  
By email: [generaloffice@concourt.org.za](mailto:generaloffice@concourt.org.za)

**AND TO: MR JACOB GEDLEYIHLEKISA ZUMA**  
Respondent  
Kwadakwadunuse Homestead, KwaNxamalala, Nkandla, King  
Cetshwayo District, Kwazulu-Natal

CARE OF: **MABUZA ATTORNEYS**

1<sup>st</sup> Floor

83 Central Street

Houghton, 2198

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By email:    [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)  
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By hand and By email

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA****CASE NO:**

In the matter between:

**SECRETARY OF THE JUDICIAL COMMISSION OF  
INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
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Respondent

---

**FOUNDING AFFIDAVIT**

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I, the undersigned

**ITUMELENG MOSALA**

do hereby make oath and state that:

- 1: I am an adult male employed as the Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State ("the Commission"), with its main place of business situated at Hillside House, 17 Empire Road, Parktown, Johannesburg. My appointment as such is effective from 1 October 2020. I am duly authorised to depose to this affidavit.



2. All the facts stated herein are, unless the context indicates otherwise, within my own personal knowledge or are contained in records of the Commission under my control, and are to the best of my belief both true and correct.
3. Where I make legal submissions, I do so on the advice of the Legal Team of the Commission and the Commission's legal representatives in these proceedings. I believe such advice to be correct.

#### **THE PARTIES**

4. I am the applicant in this matter and institute these proceedings in my capacity as the Secretary of the Commission.
5. The Commission was established by Proclamation of the President (who was then the respondent) signed on 23 January 2018 and promulgated on 25 January 2018.<sup>1</sup> The Proclamation was made in terms of the President's power to appoint a commission of inquiry, under section 84(2)(f) of the Constitution. The Proclamation defined the Commission's Terms of Reference in a schedule. The Proclamation and its schedule are attached as "IM1".
6. The respondent is Mr Jacob Gedleyihlekisa Zuma ("Mr Zuma"), former President of the Republic of South Africa. Mr Zuma resides at Kwadakwadunuse Homestead, KwaNxamalala, Nkandla, King Cetshwayo District, Kwazulu-Natal.

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<sup>1</sup> Proclamation No. 3 of 2018 published in the Government Gazette No. 41403 on 25 January 2018.



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**STRUCTURE OF THIS AFFIDAVIT**

7. This affidavit is structured as follows:
  - 7.1. First, I address the purpose of the application;
  - 7.2. Second, I deal with jurisdiction and urgency;
  - 7.3. Third, I describe the Commission's powers to summon and direct witnesses to give evidence;
  - 7.4. Fourth, I detail the factual background necessitating this application;
  - 7.5. Fifth, I set out the history of Mr Zuma's failure to cooperate with the Commission;
  - 7.6. Sixth, I address the issue and service of the previous summons against Mr Zuma;
  - 7.7. Seventh, I address Mr Zuma's duty to comply with the Commissions' summons and the directions of the Chairperson; and
  - 7.8. Finally, I deal with appropriate relief, including costs.

**THE PURPOSE OF THIS APPLICATION**

8. This is an urgent application for an order compelling Mr Zuma to account at the Commission for the exercise of his powers and performance of his constitutional obligations when he served as the President of the Republic, in

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compliance with sections 1(d), 83(b), 83(c), 96 and 182(1)(c) of the Constitution and his constitutional oath of office.

9. Mr Zuma is required to account by appearing before the Commission, giving evidence and answering any questions that may lawfully be put to him by the designated Evidence Leader(s) and the Chairperson of the Commission in connection with any matters being investigated by the Commission relating to the time when he was President of the Republic.
10. I am advised that the constitutional obligation that Mr Zuma had during his term in office as President of the Republic, to account for the exercise of his powers and the performance of his functions as the President, did not cease upon his resignation as President. I am advised that Mr Zuma remains constitutionally obliged to account for how he exercised his powers or performed his functions during his term of office, and to answer allegations that he abused his powers as President of the country, notwithstanding that he is no longer the President.
11. The Commission summoned Mr Zuma to appear before it for examination under oath or affirmation on 16 to 20 November 2020 (both dates inclusive), to give evidence and be questioned on various matters that are the subject of the Commission's investigations and to respond to the evidence of certain witnesses that implicates or may implicate him in acts of wrongdoing.
12. This application has arisen because, although Mr Zuma attended the Commission's proceedings on the 16<sup>th</sup>, 17<sup>th</sup> and in the morning of 19 November 2020, he left the proceedings of the Commission without the



Chairperson's permission on 19 November 2020 and did not return to be examined, in defiance of the summons issued to him. Mr Zuma is required to appear before the Commission, to give evidence and to answer any questions that may lawfully be put to him in connection with allegations or evidence of alleged wrongdoing while he was President of the Republic.

13. To ensure Mr Zuma's compliance with his constitutional duty of accountability, the applicant requires an order by this Court –

11.1 declaring that Mr Zuma, as the former President, is obliged to account before the Commission for his exercise of public power and performance of his constitutional obligations whilst holding that office, in respect of matters being investigated by the Commission;

11.2 declaring Mr Zuma's failure to remain in attendance at the Commission on 19 November and to appear on 20 November 2020 unlawful;

11.3 directing Mr Zuma to appear before the Commission whenever he has been served with a summons validly issued by the Secretary of the Commission unless he has an excuse valid in law for not complying with such summons;

11.4 directing Mr Zuma to give evidence and answer any questions that may be put to him once sworn in, subject only to the privilege against self-incrimination;



- 11.5 directing Mr Zuma to comply with the fresh summons issued by the Commission directing him to appear and be examined under oath on 18 to 22 January 2021 and 15 to 19 February 2021, all dates inclusive;
- 11.6 directing Mr Zuma to answer the allegations that witnesses at the Commission have made against or that concern him at the time he held the office of the President of the Republic;
- 11.7 directing Mr Zuma to comply on or before 10 January 2021 with directives already issued against him by the Chairperson of the Commission in terms of regulation 10(6) of the Regulations of the Commission<sup>2</sup> which has already been served on him by delivering the affidavit(s) contemplated in those directives; and
- 11.8 directing Mr Zuma to comply with any directives that the Chairperson may validly issue against him in the future under regulation 10(6) of the Regulations of the Commission in connection with matters being investigated by the Commission.
14. I do not make this application lightly. This Court is ordinarily a court of final instance. However, for reasons fully tabulated below, I believe that only this Court can grant effective and adequate relief in the circumstances to address

<sup>2</sup> The Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, promulgated in Government Notice 105 in Government Gazette on 9 February 2018, and as amended ("the Commission's Regulations").

Regulation 10.6 provides:

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

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the grave situation that has arisen as a result of the respondent acting in defiance of the summons and in defiance of the directives issued against him by the Chairperson under regulation 10(6).

15. I do not believe that Mr Zuma will defy an order of this Court, directing him to comply with the directives of the Chairperson, the new summons and to account for his conduct in the highest office by appearing before the Commission, giving evidence and answering questions that will be put to him concerning the matters the Commission is investigating.
16. Mr Zuma is required by the Commission to account for his conduct during his term of office as President of the Republic insofar as it relates to the Commission's Terms of Reference, including by admitting or denying, with reasons, relevant allegations made against or about him by other witnesses. Over thirty witnesses have made allegations against or about Mr Zuma that relate to the Commission's Terms of Reference and that require a response.
17. The Commission's Terms of Reference refer directly and specifically to Mr Zuma as then President and head of the national executive – this appears from paragraphs 1.2, 1.3, 1.4 and 1.9. The Terms of Reference also refer to Mr Zuma as a member of the National Executive, in paragraphs 1.1 and 1.7. The relevant terms read:

"1. The Commission shall inquire into, make findings, report on and make recommendations concerning the following, guided by the Public Protector's state of capture report, the Constitution, relevant legislation, policies, and guidelines, as well as the order of the North Gauteng High Court of 14 December 2017 under case number 91139/2016:



- 1.1 whether, and to what extent and by whom attempts were made through any form of inducement or for any gain of whatsoever nature to influence members of the National Executive (including Deputy Ministers), office bearers and/or functionaries employed by or office bearers of any state institution or organ of state or directors of the boards of SOE's. In particular, the commission must investigate the veracity of allegations that former Deputy Minister of Finance, Mr Mcebisi Jonas and Ms Mentor were offered Cabinet positions by the Gupta family;
- 1.2 whether the President had any role in the alleged offers of Cabinet positions to Mr Mcebisi Jonas and Ms Mentor by the Gupta family as alleged;
- 1.3 whether the appointment of any member of the National Executive, functionary and /or office bearer was disclosed to the Gupta family or any other unauthorised person before such appointments were formally made and/or announced, and if so, whether the President or any member of the National Executive is responsible for such conduct;
- 1.4 whether the President or any member of the present or previous members of his National Executive (including Deputy Ministers) or public official or employee of any state owned entities (SOEs) breached or violated the Constitution or any relevant ethical code or legislation by facilitating the unlawful awarding of tenders by SOE's or any organ of state to benefit the Gupta family or any other family, individual or corporate entity doing business with government or any organ of state;
- ...
- 1.7 whether any member of the National Executive and including Deputy Ministers, unlawfully or corruptly or improperly intervened in the matter of the closing of banking facilities for Gupta owned companies;

...

1.9 the nature and extent of corruption, if any, in the awarding of contracts and tenders to companies, business entities or organizations by Government Departments, agencies and entities. In particular, whether any member of the National Executive (including the President), public official, functionary of any organ of state influenced the awarding of tenders to benefit themselves, their families or entities in which they held a personal interest" (emphasis added).

18. Much, if not most, of the alleged corruption and acts which might constitute state capture occurred during Mr Zuma's term of office as the President of the Republic of South Africa. I am advised and submit that, as the holder of the highest public office, Mr Zuma is constitutionally obliged to account for how he exercised the public power vested in him and performed his constitutional duties as the President, including by giving evidence at the Commission when called upon to do so.

19. Although a presidential commission, the establishment of the Commission has its origins in an investigation conducted and a report issued by the former Public Protector entitled "State of Capture", which was released in October 2016.<sup>3</sup> The Public Protector made certain *prima facie* findings of improper and unethical conduct implicating then President Zuma.<sup>4</sup> However, given the extent of the issues to be traversed and the resources required to investigate them, the Public Protector was unable to complete her investigation. Her

<sup>3</sup> Public Protector *State of Capture* Report No.6 of 2016/17 (14 October 2016).

<sup>4</sup> In the *State of Capture* Report at page 343ff, the Public Protector does not make firm findings but rather "observations". On review, the Full Bench described these "observations" as *prima facie* evidence of improper and unethical conduct: see *President of the Republic of South Africa v Office of the Public Protector and Others* 2018 (2) SA 100 (GP) at para 107.

remedial action accordingly directed the President to appoint a commission of inquiry to complete this task by investigating "*all the issues using the record of [her] investigation and the report as a starting point*".<sup>5</sup>

20. As a presidential commission of inquiry and one specially required by the Public Protector, the Commission's inquiry is pre-eminently an exercise in constitutional accountability. The Commission's work is directed at ensuring transparency and public accountability in government, in the exercise of public power and the use of public resources. The Commission's work is concerned with restoring the integrity and public confidence in the institutions and process of government as a whole.
21. The Commission is required to complete its work, and the Chairperson of the Commission ("**the Chairperson**") to submit his report and recommendations to the President, by 31 March 2021. This follows an extension of the Commission's duration under the Terms of Reference,<sup>6</sup> and a further extension by the High Court.<sup>7</sup>
22. Given the limited time remaining to the Commission, and the overriding public interest in hearing Mr Zuma's account for what his role may or may not have

<sup>5</sup> Public Protector *State of Capture* Report at page 354, para 8.6.

<sup>6</sup> Proclamation 34 of 2018 in Government Gazette No. 42086 of 5 December 2018: extending the Commission's terms to the end of February 2020.

<sup>7</sup> Chairperson of the Judicial Commission of Inquiry into State Capture v President of the Republic of South Africa and Others (94785/2019) [2020] ZAGPPHC 74 (24 February 2020). The High Court ordered, inter alia:

"The period of 180 days referred to in paragraph 4.3 of this Court's order in the matter of President of South Africa v Office of the Public Protector and Others 2018 (2) SA 100 (GP) - being the period for the Commission of Inquiry appointed by the President of the Republic of South Africa pursuant to that order, to complete its work and present its report with findings and recommendations to the President, which period has subsequently been extended by orders of this Court is further extended - by a period of thirteen months from 1 March 2020 to 31 March 2021. This is the final extension."

been in regard to allegations of state capture, corruption and fraud and other matters being investigated by the Commission, the Commission approaches this Court for urgent relief to enforce the new summons and regulation 10(6) directives issued against Mr Zuma pending Mr Zuma's threatened application for the review of the Chairperson's decision on recusal and for appropriate mandatory relief.

23. In the next section, I explain why this Honourable Court has jurisdiction either exclusively, or concurrently with the High Court. In the latter event, I explain why it is in the interests of justice to grant direct access to this Court.

## JURISDICTION

### Exclusive Jurisdiction

24. Section 167(4)(e) of the Constitution reads: "*Only the Constitutional Court may decide... that Parliament or the President has failed to fulfil a constitutional obligation*". For the reasons that I set out below, I am advised that this application falls within the exclusive jurisdiction of this Honourable Court under section 167(4)(e) of the Constitution.
25. First, this matter concerns the failure of Mr Zuma, as the former President, to fulfil his special constitutional obligation to be open, responsive and accountable for his exercise of public power and performance of his constitutional duties when he served as the President of the Republic. He is called upon to fulfil this obligation by appearing at the Commission and giving

evidence and subjecting himself to questioning on such matters falling within the Commission's Terms of Reference.

26. The constitutional obligation of public accountability for conduct in public office is an ongoing one. Mr Zuma's duty of accountability did not end with the termination of his holding of office as the President, but persists in respect of his conduct and exercise of public power in that office. As the former President, Mr Zuma always has a constitutional obligation to account for his exercise of public power and performance of his constitutional duties in the highest office. By its very nature, the duty of accountability may be backward looking.

27. Mr Zuma's constitutional obligation to be accountable for his conduct during his term as the President flows, in the first place, from section 1(d) of the Constitution and the specific constitutional duties vested in the President under section 83(b), 83(c) and 96 of the Constitution, as well as the President's constitutional oath of office.

27.1. Section 83(b) and (c) of the Constitution oblige the President to 'uphold, defend and respect the Constitution as the supreme law of the Republic' and 'promote unity of the nation and that which will advance the Republic'.

27.2. The President's obligations under section 83(b) and (c) must be read with the foundational constitutional values in section 1 of the Constitution, which include 'accountability, responsiveness and openness' in a democratic system of government (section 1(d)).

27.3. As a member of Cabinet, President Zuma was obliged under section 96 of the Constitution to act ethically, to avoid conflicts of interest, and not to use his position or any information entrusted to him, to enrich himself or his family or his friends or improperly benefit any other person. He is specifically called upon by the Commission to account for his fidelity to these duties.

27.4. Further, on assuming office as the President, Mr Zuma took a constitutional oath of office as required under section 87 and Schedule 2 of the Constitution. He pledged to be faithful to the Republic and obedient to the Constitution and “to always” fulfil his duties. That oath is binding on him, at least for so long as he continues to enjoy benefits of the Presidential office (which he still does) and at least in respect of the duties that by their very nature persist beyond the term of office (which includes the duty of accountability).<sup>8</sup>

28. Second, Mr Zuma’s constitutional obligation to give an account of his conduct as the President at the Commission is required by the remedial action

<sup>8</sup> The oath reads as follows:

“In the presence of everyone assembled here, and in full realisation of the high calling I assume as President/Acting President of the Republic of South Africa, I, A.B., swear/solemnly affirm that I will be faithful to the Republic of South Africa, and will obey, observe, uphold and maintain the Constitution and all other law of the Republic; and I solemnly and sincerely promise that I will always-

- promote all that will advance the Republic, and oppose all that may harm it;
- protect and promote the rights of all South Africans;
- discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience;
- do justice to all; and
- devote myself to the well-being of the Republic and all of its people.

(In the case of an oath: So help me God.)” (emphasis added)



contained in the Public Protector's *State of Capture Report*, which is the foundation of the Commission's mandate. The remedial action specifically required the investigation of Mr Zuma's compliance with his duties as the President.<sup>9</sup> Mr Zuma remains obliged to heed and give effect to the remedial action of the Public Protector under section 182(1)(c) of the Constitution, notwithstanding the fact that he no longer holds the office of the President.

28.1. Paragraph 8.6 of the Public Protector's remedial action specifically required the Judge presiding as chair of the Commission "to investigate all the issues using the record of this investigation and the report as a starting point" as fully identified in the remedial action. The

<sup>9</sup> The remedial action of the Public Protector directed the President to appoint a judicial commission of inquiry into issues stemming from the Public Protector's preliminary investigation into alleged state capture, fraud and corruption involving the state. Of the issues identified by the Public Protector as requiring further investigation by the Commission, several are directed specifically at the conduct of and Mr Zuma's compliance (as the President of the Republic), inter alia, with his constitutional duties under section 96 of the Constitution. These included:

- (i) whether the President had breached the Ethics Act and had acted improperly and in violation of the Ethics Code;
- (ii) whether the President had allowed members of the Gupta family and his son to be involved in the process of removal and appointment of the Minister of Finance in December 2015;
- (iii) whether the President had allowed members of the Gupta family and his son to engage or be involved in the process of removal and the appointment of various members of Cabinet;
- (iv) whether the President had allowed members of the Gupta family and his son to be involved in the process of appointing members of boards of directors of SOEs;
- (v) whether the President had enabled or turned a blind eye in violation of the Ethics Code to alleged corrupt practices by the Gupta family and his son in relation to allegedly linking appointments to quid pro quo conditions;
- (vi) whether the President had improperly and in violation of the Ethics Code exposed himself to any situation involving the risk of conflict between his official duties and his private interests, or used his position or information entrusted to him to enrich himself and businesses owned by the Gupta family and his son to be given preferential treatment in the award of state contracts, business financing and trading licences;
- (vii) whether the President had prejudiced anyone by his conduct; and whether other Cabinet Ministers had improperly interfered with the relationship between banks and Gupta-owned companies and thus giving preferential treatment to such companies on matters that should have been handled by independent regulatory bodies.

These issues are reflected in the Terms of Reference of the Commission, addressed above.

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issues referred to in paragraph 8.6 included Mr Zuma's alleged failures to fulfil his special constitutional obligations as President of the Republic. Mr Zuma's decision to defy the Commission's summons and the Chairperson's directives issued under regulation 10(6) violates and frustrates the remedial action of the Public Protector and thus falls within this Court's exclusive jurisdiction;<sup>10</sup>

28.2. The Public Protector envisaged that the Commission would be time bound – 180 days maximum. While this period was extended by a court order, the urgency in the finalisation of the investigation remains. Mr Zuma's conduct in defying the summons and the Chairperson's directives undermines the ability of the Commission to finalise the investigation expeditiously, as per paragraph 8.8 of the Public Protector's remedial action. The new time period lapses in March 2021 but Mr Zuma's conduct frustrates the remedial action in this manner as well.<sup>11</sup>

29. Third, Mr Zuma's constitutional obligation to give an account of his conduct for the time when he was President is required by the constitutional mandate of the Commission, as a presidential commission of inquiry established under

<sup>10</sup> The remedial action was also repeated in the judgment of the North Gauteng High Court, which dismissed Mr Zuma's application to review and set aside the Public Protector's remedial action. In its order in the counter-application to the application that Mr Zuma had brought in the High Court, Pretoria, that Court made an order, *inter alia*, that "the Judge who is to head the commission of inquiry ... [was] to investigate all the issues using the record of the Public Protector's investigation and the State of Capture Report, No 6 of 2016/17 as a starting point." Paragraph 4.2 of the order of the High Court read: "the commission of inquiry is to be given powers of evidence collection that are no less than that of a Public Protector."

<sup>11</sup> Paragraph 8.8 of the Public Protector's remedial action reads: "The commission of inquiry to complete its task and to present the report with findings and recommendations to the President within 180 days. The President shall submit a copy with an indication of his/her intentions regarding the implementation to Parliament within 14 days of releasing the report."



section 84(2)(f). The Commission has a special constitutional status and purpose, which requires respect, cooperation and participation by organs of state, public office-bearers and erstwhile public office bearers insofar as it concerns their time in office. It is a constitutional mechanism for fact-finding, for uncovering the truth in matters of public concern and for promoting transparency and accountability, in the public interest.

30. For the Commission to fully realise its constitutional purpose – under both section 182(1)(c) and section 84(2)(f) – requires the respect, cooperation and compliance with its summonses and with the Chairperson’s directives or orders by those against whom summonses and directives may be issued, particularly those who must be held accountable for their exercise of public power.

31. Mr Zuma’s failure to comply with the Commission’s summons and Chairperson’s directives is, accordingly, a breach of –

31.1. his ongoing and overarching constitutional duty to be accountable for his conduct as the former President of the Republic of South Africa, and

31.2. his specific constitutional obligations to respect, cooperate with and participate in the inquiry of the Commission pursuant to sections 84(2)(f) and 182(1)(c) of the Constitution. Mr Zuma’s failure in this regard seeks to frustrate, or has the effect of undermining or frustrating–



- 31.2.1. the former Public Protector's remedial action taken in terms of section 182(1)(c), which confers on the Public Protector the power "to take appropriate remedial action"; and
- 31.2.2. the purpose sought to be achieved by the appointment of a presidential commission of enquiry under section 84(2)(f).
32. Only this Court is competent under section 167(4)(e) of the Constitution to decide whether Mr Zuma's failure to heed the summons and Chairperson's directions to furnish his account to the Commission constitutes a constitutional breach and is unlawful.
33. Fourth, this Court's exclusive jurisdiction arises from the terms of the Public Protector's remedial action which specifically required the Chief Justice to select a judge to chair the commission. The appointment of the Chair of the Commission was an exceptional matter. The remedial action prescribed that the President could only appoint a Chair who had been selected by the Chief Justice. This was necessary to give effect to the remedial action and to avoid a conflict of interest which otherwise would have arisen. This shows the intensity of the political issues involved in this case, and justifies the exclusive nature of the jurisdiction of this Court. The conduct of Mr Zuma in refusing to appear and answer questions by the Commission undermines the special role of the Chief Justice in selecting the Chair of the Commission precisely because of the grave political consequences of the decision.

**Direct access in the interests of justice**

34. In the event that this Court finds that this application does not fall within its exclusive jurisdiction, it will be argued that this is nevertheless an appropriate matter in which to grant an order for direct access in terms of section 167(6)(a) of the Constitution and Rule 18 of the Rules of this Court.

35. This application squarely engages this Court's jurisdiction under section 167(3)(b) as a constitutional matter of great public importance. The matter that has arisen is an extraordinary one.

35.1. A critical constitutional issue that arises is whether the former President bears an ongoing constitutional obligation of accountability for his conduct in office, or whether such obligation ceases upon resignation from office. It is submitted that there is an ongoing duty of accountability, especially when regard is had to the nature of the office of the President, the functions and obligations in that office, and the provisions of section 1(d) of the Constitution. The obligation of accountability is buttressed by the principles of transparency and openness.

35.2. The duty of accountability looms large in this case. A former President is no ordinary witness – a sitting President has been described by this Court as a “constitutional being by design”. Moreover, in this case, Mr Zuma is required to answer specific allegations that he abused the office of the President for the benefit of third parties and his family.

- 35.3. While the public interest animates all commissions of inquiry, the special status and subject-matter of this Commission elevates the importance of the constitutional issue at the heart of this application. The establishment and mandate of the Commission is pre-eminently an exercise in constitutional accountability.
- 35.4. As noted, the Commission is a presidential commission appointed in terms of section 84(2)(f) of the Constitution, to give effect to the remedial action of the Public Protector under section 182(1)(c) of the Constitution. As such, it has a special constitutional status and serves a constitutional function.
- 35.5. The subject matter of the Commission's investigation also adds an important constitutional dimension. The Commission is charged with investigating allegations of corruption, fraud and serious irregularities in the public sector. Corruption and related offences imperil the foundations of our constitutional democracy and the ability of the state to fulfil the socio-economic rights in the Bill of Rights. This Court has held that –

*“Corruption and maladministration are inconsistent with the rule of law and the fundamental values of our Constitution. They undermine the constitutional commitment to human dignity, the achievement of equality and the advancement of human rights and freedoms. They were the antithesis of the open, accountable, democratic government required by the*

*Constitution. If allowed to go unchecked and unpunished they will pose a serious threat to our democratic State.”<sup>12</sup>*

In addition to posing a threat to the democratic state, corruption also threatens the achievement of the rights in the Bill of Rights. Corruption *“undermines the ability of the government to meet its commitment to fight poverty and to deliver on other social and economic rights guaranteed in our Bill of Rights”*.<sup>13</sup>

35.6. The mandate of the Commission thus has serious implications for the constitutional project more broadly, including the country’s commitment to the Bill of Rights. When a former President frustrates the ability of the Commission to perform its duty to investigate such matters, he is frustrating the ability of the country to know what, if anything, happened to funds that could have been used for the fulfilment of socio-economic rights in the Bill of Rights and its ability to address the scourge of corruption and malfeasance.

35.7. A defiance of a summons lawfully issued to appear before a judicial commission of inquiry is also a grave infringement of the rule of law protected under section 1(c) of the Constitution. It is necessary for this Court to step in to address the ongoing infringement of the rule of law by enforcing the summons.

<sup>12</sup> *South African Association of Personal Injury Lawyers v Heath and Others* 2001 (1) SA 883 (CC) at para 4.

<sup>13</sup> *Glenister v President of the Republic of South Africa and Others* 2011 (3) SA 347 (CC) at para 57.

- 35.8. Mr Zuma's defiance of the summons also infringes judicial authority, protected under section 165 of the Constitution. The commission is chaired by the second most senior member of the judiciary. The defiant posture adopted by Mr Zuma undermines the special role of a judicial commission of inquiry.
- 35.9. In terms of section 9(1) of the Constitution everyone is equal before the law. By his conduct, in failing to comply with the Commission's summons and the Chairperson's directives, Mr Zuma has sought to place himself above the law. This is intolerable in a society which is founded on constitutional supremacy and equality before the law. The application seeks to ensure that Mr Zuma is not treated as if he is above the Constitution and the law.
- 35.10. A further constitutional dimension to this application concerns the effect of the Chairperson's recusal decision for Mr Zuma's duty to comply with its summons and directions – in particular, whether Mr Zuma remains obliged to participate in the Commission's proceedings notwithstanding his intended application for the review of the Chairperson's recusal decision. This Court has held that the recusal of decision-makers owing to alleged bias in judicial, quasi-judicial and administrative proceedings is a constitutional matter grounding its jurisdiction.<sup>14</sup> This legal question is also of considerable public importance, not only for its immediate implications for Mr Zuma's

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<sup>14</sup> *President of the Republic of South Africa and Others v South African Rugby Football Union and Others* 1999 (4) SA 147; 1999 (7) BCLR 725 (CC) para 30; *South African Commercial, Catering and Allied Workers Union (SACCAWU) v I&J Ltd* 2000 (3) SA 705 (CC) para 2; *S v Basson* 2005 (1) SA 171 (CC) para 21.

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appearance and evidence in the Commission but also for the principled implications it would hold for future commissions of inquiry.

35.11. Moreover, the public importance of the enforcement of summons issued by commissions of inquiry must be appreciated. Commissions are typically tasked with investigating contested issues that have prompted public concern. So it is inevitable that some witnesses will not appear before the commission voluntarily. The power to summon witnesses is thus a necessary mechanism to enable the participation of all persons who are in a position to assist a commission uncover the truth. Yet without the power to enforce a summons against a witness who challenges a decision made by the presiding officer in the course of the inquiry (such as the recusal decision), there is a risk that a commission will be hamstrung and rendered ineffective, at great prejudice to the public interest. This is especially so given that commissions of inquiry have limited life-spans and resources.

36. I respectfully submit that this is indeed an exceptional case where the interests of justice require the Court to assume jurisdiction as the court of first and final instance, and to grant direct access. I emphasise the following further practical considerations in this regard:

36.1. There are no factual disputes that require resolution by this Court for purposes of deciding the application, which cannot readily be resolved on the papers. This application is concerned with questions of legal principle.

36.2. Its adjudication does not require the hearing of oral evidence, as the matter can be decided on the basis of common cause facts which are self-evident from the papers. In short, these relevant facts are that (a) Mr Zuma was duly summoned to appear before the Commission; (b) on the date scheduled for his appearance, Mr Zuma moved an application for the recusal of the Chairperson of the Commission, which was dismissed; and (c) Mr Zuma thereupon, without the Chairperson's permission, left the Commission's proceedings in contravention of the summons and section 6(1) of the Commissions Act, 1947.

36.3. One of the most compelling reasons for direct access lies in the pressing public importance of the matter and prejudice to the public interest if jurisdiction is not assumed.<sup>15</sup> Given the importance of Mr Zuma's role as former president, I submit that it is in the public interest that urgent steps are taken to secure his appearance before the commission. It is in the public interest to require Mr Zuma to appear before the Commission to give answers to the matters under investigation as part of his duty of accountability. I refer also to what I have stated about the importance of the subject of the Commission's investigation.

36.4. As addressed below, this application bears reasonable prospects of success, which also informs the assessment of whether it is in the interests of justice to grant leave.

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<sup>15</sup> *Bruce and Another v Fleecytex Johannesburg CC and Others* 1998 (2) SA 1143 (CC) at para 19; repeated in *Mazibuko NO v Sisulu and Others NNO* 2013 (6) SA 249 (CC) at para 35.

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36.5. Finally, given the unprecedented nature of this Commission and this matter, and the unlikely event that any similar matter will arise in the future, granting direct access in this case will not invite frivolous direct access applications.

#### **The urgency of obtaining final determination by this Court**

37. This application for direct access is brought on an urgent basis in terms of rule 12 of the Rules of this Court. I am advised that urgency is a compelling reason for granting direct access, and that the factors generally considered by this Court when assessing urgency include: (a) the consequence of the relief not being granted; (b) whether the relief would become irrelevant if it is not immediately granted; and (c) whether the urgency was self-created.
38. As noted the Commission is required to complete its work, and the Chairperson to submit his report and recommendations to the President, by 31 March 2021. This follows an extension of the Commission's duration under the Terms of Reference, and a further extension by the High Court.
39. The genuine urgency of this application is demonstrated by the fact that ordinary procedures will not suffice. Very little time remains for the Commission to finish its work and compile its report based on all evidence presented before it – the deadline set by the High Court in its "final extension" is 31 March 2021.
40. The Commission's plan was to conclude the hearing of all oral evidence by the end of December 2020. That plan was upset by the Covid-19 lockdown,

which meant that the Commission lost three months allocated to hearings. The Commission's work has also been frustrated by Mr Zuma's conduct which, as I explain below, has resulted in the loss of five weeks scheduled for hearing his evidence (excluding the week of 16 November 2020). Although the commission will not complete the hearing of all oral evidence by the end of December, it will have to complete all oral evidence not later than the end of February 2021.

41. Realistically, therefore, the only remaining time for the hearing of Mr Zuma's evidence is between January and the end of February 2021. The dates in the new summons issued against Mr Zuma have been chosen to accommodate the Commission's examination of other witnesses.
42. It is critical to have certainty as to whether or not Mr Zuma will be compelled to give evidence by this Court, in order for the Commission to plan how to use the remaining weeks of its time.
43. The urgency of having final determination by this Court is clear: any relief would be ineffective if not immediately granted. The limited lifespan of the Commission means there is an incentive for recalcitrant witnesses to delay accountability through court challenges and appeals. Any delay occasioned by this application having to work its way through from the High Court, to the Supreme Court of Appeal and to this Honourable Court would defeat the purpose of this application because in the meantime, the term of the Commission would lapse.

44. Moreover, as I explain below, Mr Zuma is not only avoiding giving evidence at the Commission, but is actively attacking the legitimacy and credibility of the Commission, its Chairperson and its work. This requires urgent intervention by this Honourable Court, to authoritatively countermand the negative impact of these attacks and protect the integrity and legitimacy of the Commission.
45. Taken together, the reasons advanced above demonstrate that, even if the matter does not fall within this Court's exclusive jurisdiction, it is in the interests of justice for direct access to be granted on an urgent basis.

#### **THE COMMISSION'S COERCIVE POWERS**

46. As the Commission's Terms of Reference make clear, the Commissions Act applies to the Commission.<sup>16</sup> The Commissions Act confers certain general powers on the Commission, including its powers to summon witnesses and obtain evidence.<sup>17</sup>
47. Section 3 of the Commissions Act sets out the "Commission's powers as to witnesses" and provides as follows:

"(1) For the purpose of ascertaining any matter relating to the subject of its investigations, a commission shall in the Union have the powers which a Provincial Division of the Supreme Court of South Africa has within its province, to summon witnesses, to cause an oath or affirmation to be administered to them, to examine them, and to call for the production of books, documents and objects.

<sup>16</sup> Paragraph 4 of the Terms of Reference.

<sup>17</sup> Section 3 of the Commissions Act.

- (2) A summons for the attendance of a witness or for the production of any book, document or object before a commission shall be signed and issued by the secretary of the commission in a form prescribed by the chairman of the commission and shall be served in the same manner as a summons for the attendance of a witness at a criminal trial in a superior court at the place where the attendance or production is to take place.
- (3) If required to do so by the chairman of a commission a witness shall, before giving evidence, take an oath or make an affirmation, which oath or affirmation shall be administered by the chairman of the commission or such official of the commission as the chairman may designate.
- (4) Any person who has been summoned to attend any sitting of a commission as a witness or who has given evidence before a commission shall be entitled to the same witness fees from public funds, as if he had been summoned to attend or had given evidence at a criminal trial in a superior court held at the place of such sitting, and in connection with the giving of any evidence or the production of any book or document before a commission, the law relating to privilege as applicable to a witness giving evidence or summoned to produce a book or document in such a court, shall apply.”
48. Any person who fails, without sufficient cause, to comply with a summons is guilty of an offence in terms of section 6(1) of the Commissions Act.
49. The Regulations specific to the Commission were promulgated on 9 February 2018, and have been subject to various amendments.<sup>18</sup> The Regulations

<sup>18</sup> Government Notice No. 105 published in the Government Gazette No. 41436 (9 February 2018) as amended by Proclamation No. 8 of 2018 published in the Government Gazette No. 41522 (21 March 2018), Proclamation No. 1 of 2020 published in the Government Gazette No. 42947 (10 January 2020), Proclamation No. 24 of 2020 published in the Government Gazette No. 43563 (28 July 2020).



govern the proceedings of the Commission and further specify the powers of the Commission.

50. Regulation 10(6) provides that the Chairperson may direct any person to submit an affidavit. It provides:

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

51. Regulation 12, as amended, creates a corresponding offence for non-compliance with regulation 10(6):

“(2) Any person who—

...

- (d) refuses or fails, without sufficient cause, to submit, within a period fixed by the Chairperson or at all, an affidavit or affirmed declaration pursuant to a directive issued by the Chairperson under regulation 10(6);

...

is guilty of an offence and liable on conviction—

- (i) in the case of an offence referred to in paragraph (a), (c), (d) or (e), to a fine, or to imprisonment for a period not exceeding 12 months.”

52. The Commission is thus vested with powers to compel a person to appear and give evidence or to produce any book, object or document, or to compel a person to submit an affidavit or affirmed declaration.
53. Regulation 15 confers on the Commission the power to determine its own procedures. This has been done, *inter alia*, through the publication of Rules governing the proceedings of the Commission.<sup>19</sup>
54. The Commission's coercive powers are necessary to enable it to conduct its work meaningfully and effectively in the performance of its mandate and in the public interest. The Commission is required to investigate all allegations of state capture, corruption and fraud without fear, favour or prejudice. To this end, the Commission must, through its Investigating Team and its Legal Team, ensure that allegations which seem to support or not support the existence of state capture, corruption and fraud, and which seem to support or not support the version advanced by any individual – implicated or not – must, as far as is possible, be probed, properly investigated and verified.
55. Given the subject of the Commission's investigations – that is, allegations of state capture and serious crimes perpetrated against the state, involving people who hold or held positions of public trust – it is inevitable that certain witnesses may be reluctant to give evidence. The Commission's powers of compulsion enable it, in its search for the truth, to secure the appearance and evidence of key witnesses, while the Rules serve to ensure that procedural fairness protections apply equally to all implicated parties.

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<sup>19</sup> General Notice No 397 of 2018 published in the Government Gazette No. 41774 (16 July 2018).

**FACTUAL BACKGROUND**

56. Since the Commission commenced its hearings in August 2018, every effort has been made for the respondent to furnish the Commission with his version of events on affidavit and to appear before the Commission to be questioned on various matters that are the subject of the investigation.
57. These efforts are detailed below. Mr Zuma's repeated failure or refusal to co-operate with the Commission made it necessary to compel his attendance by way of a summons.
58. Section 3(1) of the Commissions Act gives the Commission "the powers which a Provincial Division of the Supreme Court of South Africa has within its province, to summon witnesses, to cause an oath or affirmation to be administered to them, to examine them, and to call for the production of books, documents and objects".<sup>20</sup>
59. The issuing of summons is not an unusual procedural device: no less than a total of 2,526 summonses have been issued by the Commission so far, of which 99 have summoned witnesses to appear.
60. A person who has been summoned to appear as a witness has a legal duty to comply with the terms of that summons. Section 6(1) of the Commissions Act makes it an offence for a summoned person to fail, without sufficient cause

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<sup>20</sup> Section 3(1) of the Commissions Act. The reference to a Provincial Division of the Supreme Court must be read as a reference to a provincial division of the High Court: see section 53 of the Superior Courts Act 10 of 2013.

(the onus of proof whereof rests upon that person), to attend at the time and place specified in the summons.

61. As Secretary for the Commission, and having obtained authorisation from the Chairperson, I issued a summons against Mr Zuma on 20 October 2020 requiring Mr Zuma to appear before the Commission on 16 to 20 November 2020 (both dates included) for the purpose of giving evidence and being questioned on certain matters being investigated by the Commission. The summons was duly served on Mr Zuma in accordance with section 3(2) of the Commissions Act 8 of 1947.<sup>21</sup> A copy of the summons is annexed hereto marked "IM2". Annexure A to the summons describes the evidence in the form of affidavits or statements of certain witnesses on which Mr Zuma was required to testify and be questioned.

#### **The week of 16 to 20 November 2020**

62. I describe immediately below the events of the week of 16 to 20 November 2020 immediately, before returning to the prior history of the Commission's engagement with Mr Zuma.

- 62.1. On 16 November 2020, Mr Zuma attended the proceedings of the Commission. At the commencement of the proceedings the Chairperson had read into the record a statement in which he responded to certain allegations by Mr Zuma which formed one of the bases for the recusal application. Mr Zuma's legal representatives moved an application for the recusal of the Chairperson. That

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<sup>21</sup> The details of service are addressed further below.



application for recusal was only brought after the summons had been issued and served on him,<sup>22</sup> that is (i) more than two years after the Chairperson first invited Mr Zuma to give evidence;<sup>23</sup> and (ii) nearly three years after Mr Zuma, in his capacity as President of the Republic, appointed the Chairperson, to chair the Commission, on the selection of the Chief Justice.<sup>24</sup> That application had been lodged on 11 November 2020. More than four weeks had lapsed since Mr Zuma had threatened to bring that application. The hearing of argument on Mr Zuma's recusal application took the whole day on 16 November 2020. At the end of argument the Chairperson reserved his ruling and indicated that he would give it the following day.

62.2. On Tuesday, 17 November 2020, the Chairperson announced that he would deliver his ruling on the recusal application the following day. Mr Zuma's counsel then advised the Chairperson that Mr Zuma wished to attend a funeral on Wednesday, 18 November and requested that Mr Zuma be excused from attending the Commission the next day. That was on 18 November 2020. The Chairperson gave Mr Zuma permission to attend the funeral on the following day but made it clear

<sup>22</sup> The notice of motion in the recusal application was filed with the Commission on 11 November 2020 and the application for the Deputy Chief Justice's recusal was brought at the commencement of the Commission's proceedings on 16 November 2020– the same day Mr Zuma was due to testify in terms of the summons.

<sup>23</sup> The Commission commenced its hearings in August 2018. On 13 September 2018, the Chairperson, at a public hearing of the Commission, invited Mr Zuma to assist the Commission by deposing to an affidavit to respond to the allegations relating to him made by Ms Mabel Vytjie Mentor and Mr Themba Maseko. Mr Zuma's attorneys, who were present at the hearing, undertook to convey the invitation to Mr Zuma. On 11 October 2018, the Commission was informed that was attending to the matter.

<sup>24</sup> In accordance with the remedial action of the Public Protector in the *State of Capture Report*, paragraph 8.4.

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that Mr Zuma should return and appear before the Commission on 19 November 2020, when the proceedings would continue.

62.3. On Wednesday, 18 November 2020, the Chairperson advised that he required more time to prepare his ruling, in particular as Mr Zuma had filed an affidavit in response to the statement that the Chairperson had read into the record at the commencement of the hearing of the recusal application. The Chairperson announced that he would issue his ruling the following day, 19 November 2020.

62.4. On Thursday, 19 November 2020, the Chairperson delivered his ruling together with the reasons in terms of which he dismissed the recusal application. I attach the ruling of the Chairperson as annexure "IM3".

62.5. The merits of the recusal application are irrelevant to this application. The ruling of the Commission may be challenged by Mr Zuma on review. As I explain below, any pending review of the recusal decision does not constitute a basis for non-compliance with the summons by Mr Zuma.

62.6. Upon the dismissal of the recusal application, the Head of the Legal Team, Adv Paul Pretorius SC, indicated that the Commission's Legal Team intended to proceed with Mr Zuma's examination, in accordance with the summons. However, Mr Zuma's legal representative, Adv Muzi Sikhakhane SC informed the Chairperson that Mr Zuma had decided "to excuse himself" from the proceedings.

  
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62.7. Mr Zuma's legal representative further informed the Chairperson that Mr Zuma intended to take the Chairperson's decision on the recusal application on review and to file a complaint against the Chairperson with the Judicial Service Commission on the basis that, by deciding Mr Zuma's recusal application, the Chairperson had decided a matter in which he was a party. Advocate PJ Pretorius SC responded by pointing out that Mr Zuma was under a summons that was valid and binding on him and he could not excuse himself but needed the Chairperson's permission to leave. Mr Pretorius made it clear that if Mr Zuma left the proceedings without the Chairperson's permission, that would be a criminal offence. I attach the relevant extract of the transcript of the proceedings on 19 November 2020 as annexure "IM4".

62.8. After these submissions were made, the Chairperson announced that he would adjourn the proceedings for the tea break. It was clear from what the Chairperson said that, after the tea break, the proceedings would resume. However Mr Zuma left the proceedings during the tea break. He did so without requesting to be excused from the proceedings by the Chairperson. Mr Zuma thus acted in defiance of the summons issued by the Commission.

62.9. When the Commission resumed after the tea break, Mr Zuma had left the proceedings without permission. The Chairperson indicated that Mr Zuma had left; that he had left without permission; that this was regarded as a serious matter; and that the Commission would need to reflect further on the matter. The Chairperson publicly noted that the



Commission could not proceed any further that day or the following day, as it had prepared to conduct Mr Zuma's examination which had become impossible. The proceedings were, accordingly, adjourned shortly after 12h00.

63. It is clear from what preceded, and what transpired in, the week of 16 November 2020 that, although Mr Zuma attended the proceedings at the Commission, he never intended to give evidence and be examined under oath, as required under the summons. It would seem that Mr Zuma only intended to attend the hearing of his application for the recusal of the Chairperson and, if determined against him, to take the decision on review and refuse to take the witness stand, give evidence and be questioned in compliance with the summons. This appears from Mr Zuma's departure from the Commission, without the Chairperson's permission, immediately after the announcement by the Chairperson of the dismissal of his application for recusal on 19 November 2020 as well as from the following:

- 63.1. In the run-up to Mr Zuma's scheduled appearance at the Commission, the Commission sought an assurance from Mr Zuma's attorneys that he would comply with the summons. Mr Zuma's attorneys failed to give this assurance, but accused the Commission of "embarrassing" them by addressing the question. They avoided answering the question and said only that Mr Zuma had not indicated that he would defy the summons. I attach this correspondence in a bundle marked "IM5A". When the Commission followed up with another letter asking Mr Zuma's attorneys to take instructions on whether Mr Zuma was going to

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comply with the summons, Mr Zuma's attorneys still either refused or avoided answering this simple question.

63.2. When Mr Zuma's counsel argued the recusal application on 16 November 2020, he stated that Mr Zuma was never going to defy the Commission or the Chairperson as demonstrated by his presence at the Commission on 16 November 2020. I refer to the opening of Mr Zuma's counsel's address on 16 November 2020, which appears in the excerpt of the transcript marked "IM5B". Mr Zuma's counsel stated:

"And I thought this opportunity I must use first to say contrary to public speculation we advised and brought Mr Zuma here to demonstrate to you that he was never going to defy you because he understands the nature of your job and respects the summons that you issued and he was never going to defy that even if we told him to defy you." (page 16, lines 17-23) (underlining supplied)

This stands in sharp contrast with what transpired later that week when Mr Zuma clearly defied the summons and walked out of the Commission's proceedings without the Chairperson's permission and never returned.

63.3. Mr Zuma's counsel also advised the Commission that, should the application be dismissed, Mr Zuma would take the decision on review and would "say nothing" if compelled to give evidence at the Commission. The relevant excerpts from the transcript of the proceedings of the Commission on 16 November 2020 are in annexure "IM5B". I refer to the following passages:



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- 63.3.1. “If you blow us, today, you do not agree with us – as I have said, I have a mountain to climb – what happens? Do we get Mr Zuma here as a guarantee? No, no, if we are approached that way, we will just – even if we lose, we will review you, we will go as far as wherever and that is not helpful. If you force me to bring him here without the climate being created for him to believe that he is not being charged. Well, I put him there, Chair, and he will exercise his right to say nothing ...” (page 63, lines 11-20) (underlining supplied);
- 63.3.2. “As I said earlier I can sit down now Chair and you blow me and I will review you and it goes nowhere, it will be the end of Mr Zuma or I bring him here and tell him to sit there and say nothing and that is a stalemate I can do ...” (page 85, line 24 to p 86, line 2) (underlining supplied);
- 63.3.3. “Let me start with the last one that I may review later therefore there is that option. The reason I would not accept that option not me I am saying it would not be acceptable in a legal process like this is that you making your problem mine in the sense that because there is a conundrum my grounds to come before you must be regarded as incompetence simply to make things convenient for you I do not think that would be the best way to look at it but it is an option available. But it does not help because it will not deal with the problem...” (page 93, line 3 to page 94, line 4).

64. The Commission did not sit on 20 November 2020, as a result of Mr Zuma's decision to disregard the summons.
65. Following Mr Zuma's unilateral departure from the Commission's proceedings on 19 November 2020, the Jacob Zuma Foundation issued a public statement in which it stated, amongst other things, that "*President Zuma assures us that he would rather face jail than allow himself to be bullied by an irregular, manipulated and unlawful process*". I attach a copy of this statement as annexure "**IM6A**". I point out that, if Mr Zuma had any evidence to support any allegations that the Commission or its processes or the Chairperson is or are manipulated, he had an opportunity to place that evidence in his recusal affidavit but he did not do so. Mr Zuma is the founder and patron of the Foundation. The Foundation speaks in Mr Zuma's name. Mr Zuma has not publicly countermanded the Jacob Zuma Foundation's statement of 19 November 2020 (nor indeed its previous public statements undermining the Commission, such as the statement of 23 September 2020, attached as "**IM6B**"), and so must be taken to have fully associated himself with the Foundation's statements. He is invited to distance himself from the statements of the Foundation if he wishes to do so.
66. The result is that Mr Zuma is not only avoiding giving evidence at the Commission, but is now actively attacking the legitimacy and credibility of the Commission, its Chairperson and its work.
67. In addition to failing to comply with the summons, Mr Zuma has also failed to comply with directives issued by the Chairperson in terms of regulation 10(6),



requiring Mr Zuma to respond, on affidavit, to the evidence given by certain witnesses at the Commission. These directives were:

67.1. issued by the Chairperson on 27 August 2020, requiring Mr Zuma to deliver an affidavit dealing with the evidence of Mr Andile Zola Tsotsi; Mr Nicholas Hugh Linnell and Mr Tshediso John Matona, attached as “IM7”; and

67.2. issued by the Chairperson on 8 September 2020, requiring Mr Zuma to deliver an affidavit dealing with the evidence of Mr Popo Molefe, attached as “IM8”.

68. Mr Zuma has also declined to respond to any of the thirty-six Rule 3.3 Notices issued to him, inviting him to respond to the evidence of witnesses at the Commission that implicates or may implicate him.<sup>25</sup> These notices illustrate the nature and extent of the allegations concerning Mr Zuma.

<sup>25</sup> The Commission’s Rules were promulgated in the General Notice No 397 of 2018 in the Government Gazette No. 41774 (16 July 2018). Rule 3.3 provides:

“3.3 If the Commission’s Legal Team intends to present to the Commission a witness, whose evidence implicates or may implicate another person, it must, through the Secretary of the Commission, notify that person (“implicated person”) in writing within a reasonable time before the witness gives evidence:

- 3.3.1. that he or she is, or may be, implicated by the witness’s evidence;
- 3.3.2. in what way he or she is, or may be, implicated and furnish him or her with the witness’s statement or relevant portions of the statement;
- 3.3.3. of the date when and the venue where the witness will give the evidence;
- 3.3.4. that he or she may attend the hearing at which the witness gives evidence;
- 3.3.5. that he or she may be assisted by a legal representative when the witness gives evidence;
- 3.3.6. that, if he or she wishes:
  - 3.3.6.1. to give evidence himself or herself;
  - 3.3.6.2. to call any witness to give evidence on his or her behalf; or

69. The Commission has since issued two fresh summonses against Mr Zuma, requiring his attendance for examination from 18 to 22 January 2021 (both days inclusive) and 15 to 19 February 2021 (both days inclusive). These summonses are attached as “**IM9A**” and “**IM9B**”. The first of these is for Mr Zuma’s examination in January 2021. It was served on Mr Zuma on 26 and 27 November 2020, at Mr Zuma’s Forest town residence and Nkandla residence, respectively. The second summons is for Mr Zuma’s examination in February 2021. It was served on Mr Zuma on 30 November 2020 and 1 December 2020, at Mr Zuma’s Forest town residence and Nkandla residence, respectively. I attach the Sheriffs’ returns of service in a bundle marked “**IM9C**”.
70. As Secretary of the Commission, I am about to lay a criminal complaint with the South African Police Service against Mr Zuma for his failure to remain in attendance at the proceedings of the Commission until excused by the Chairperson on 19 November 2020 and in respect of his failure to attend the proceedings on 20 November 2020. This was announced by the Chairperson at the commencement of the Commission’s proceedings on 23 November 2020, as appears from the excerpt of the transcript marked “**IM10**”.

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3.3.6.3. to cross-examine the witness;

he or she must, within two weeks from the date of notice, apply in writing to the Commission for leave to do so; and

3.3.7. that the Chairperson will decide the application.”

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**MR ZUMA'S FAILURE TO COOPERATE WITH THE COMMISSION**

71. Mr Zuma has failed and refused to co-operate with the Commission to date. This is so despite the collaborative approach adopted by the Commission towards him until it became necessary to resort to a summons. The best effort made by Mr Zuma was his willingness to appear before the Commission during part of the week of 15 July 2019. Despite Mr Zuma's appearance, he has yet to provide a substantive version and answer to the material allegations concerning him.
72. I set out below a summary of Mr Zuma's past failures to co-operate with the Commission. This factual background demonstrates the necessity of the Commission's resort to a summons.

**Mr Zuma's election not to respond to rule 3.3 notices**

73. To date, thirty-six Rule 3.3 notices have been issued to Mr Zuma inviting him to respond to allegations that implicated or may have implicated him. Mr Zuma has not responded to any of these notices.
- 73.1. I attach a list of all the Rule 3.3. notices issued to Mr Zuma as annexure "IM11" and some of the Rule 3.3 notices in a bundle marked "IM12".
- 73.2. So as not to unduly burden the Court, I do not attach all of the Rule 3.3 notices nor the annexures to the Rule 3.3 notices that are in IM12

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(being excerpts from the witness statements). These can however be produced should the Court require them.

74. The Commission accepts that Mr Zuma has an election not to respond to the Rule 3.3 notices. However, Mr Zuma's election not to take up the opportunity to respond to evidence that has or may implicate him, does not preclude the Commission from exercising its power to compel him to provide his version under oath, whether by appearing at the Commission for examination or on affidavit.
75. An election by Mr Zuma not to apply for leave to adduce evidence or cross-examine a witness in response to a Rule 3.3 notice also does not detract from the legal duty of the Commission to investigate his conduct and the issues raised by witnesses before the Commission concerning him.
76. However, the Commission's efforts to compel Mr Zuma to give his evidence – by requiring him to appear before the Commission for examination and by directing that he submit responses on affidavit – have also been frustrated, as I proceed to explain.

**Mr Zuma's failure to appear and file affidavits, despite undertakings and directions to do so**

77. Since the Commission commenced its first hearing on 20 August 2018, Mr Zuma has been requested to respond on affidavit to various allegations against him but he has refused or failed to do so.

78. On 13 September 2018, and in a public hearing, the Chairperson invited Mr Zuma to respond on affidavit to evidence given by Ms Mentor and Mr Maseko – to the extent that that evidence concerned him.
79. On 11 October 2018, Mr Zuma’s attorneys advised the Commission that Mr Zuma “is attending to the matter” and seeking certain records from the office of the President. This letter is attached as “IM13”.
80. On 26 April 2019, the then acting Secretary of the Commission addressed a letter to Mr Zuma’s attorneys expressing the Commission’s “deep concern that it is now more than seven months since the Chairperson made the request and over six months since you wrote that letter and the former President has not complied with the Chairperson’s request and has not informed the Commission if he has any difficulties in complying with the request and, if so, what these are”. This letter is attached as “IM14”.
81. In a letter addressed to the Commission on 26 April 2019, Mr Zuma’s attorneys rejected any suggestion of non-cooperation with the Commission. In the same letter several complaints were raised, including that not all documents requested from the office of the President had been received by Mr Zuma. This letter is attached as “IM15”. The Commission was never asked by Mr Zuma’s attorneys to assist them to obtain any information from the Presidency. The fact remains that Mr Zuma could and should have responded to the evidence of Ms Mentor and Mr Maseko according to his best recall. He did not do so then, and still has not done so now by way of an affidavit.

82. On 30 April 2019, in a letter to Mr Zuma's attorneys, Mr Zuma was requested to appear before the Commission from 15 to 19 July 2019. In the letter Mr Zuma was informed that the purpose of the request was to allow him to "give his side of the story on the evidence given by various witnesses in which [his] name had been mentioned or in which he has been implicated in one way or another" and "to answer such questions as the Chairperson and/or a representative of the Commission's Legal Team or a Commission's evidence leader may wish to put to him about matters which are the subject of the Commission's inquiry". This letter is attached as "IM16". The list of witnesses whose evidence Mr Zuma was called upon to respond to were listed in Annexure A, which was sent to Mr Zuma's attorneys on 6 May 2019.<sup>26</sup> The letter and annexure A are attached as "IM17A".
83. After several exchanges of correspondence, Mr Zuma appeared before the Commission on 15 July 2019 and gave testimony for two and half days. At a stage in his testimony, Mr Zuma declined to answer further questions and effectively withdrew from the proceedings. Mr Zuma objected to the manner in which he was being questioned. I am advised that there was nothing objectionable about the questions put to Mr Zuma.
84. In a letter of 18 July 2019, Mr Zuma's legal representatives complained that Mr Zuma had been "subjected to relentless cross-examination". Mr Zuma's assertions were denied in a replying correspondence from the Commission. These letters are attached as "IM17B".

<sup>26</sup> The witnesses listed in annexure 'A' were the following: Mr Themba Maseko; Ms Vytjie Mentor; Mr Nhlanhla Nene; Mr Pravin Gordhan; Ms Barbara Hogan; Mr Ngoako Ramathlodi; Adv Sam Muofhe; Mr Fikile Mbalula; Mr Angelo Agrizzi.

85. On 19 July 2019, an agreement was reached in chambers regarding Mr Zuma's continued testimony. The Chairperson confirmed, in the public hearing of the Commission, the arrangement agreed in chambers. In summary, the agreed arrangement was to the following effect:

85.1. the decision that Mr Zuma would no longer participate in the proceedings was withdrawn;

85.2. Mr Zuma and his legal team wished to continue to cooperate with the Commission;

85.3. To address Mr Zuma's concerns, the Commission's legal team would inform Mr Zuma's legal team of the Commission's areas of interest in relation to each witness statement or affidavit on which the Commission required Mr Zuma to testify. Thereafter, Mr Zuma would provide an affidavit, through his legal team, that provided his version to the identified areas of interest;

85.4. The Commission's legal team would provide the areas of interest document to Mr Zuma's counsel within two weeks from 19 July 2019. Counsel for the Commission and counsel for Mr Zuma would meet to agree on the timeframes within which Mr Zuma would respond with his affidavit(s) in response to the 'areas of interest'. If the parties were not able to agree on such timeframes between themselves, the parties would approach the Chairperson who would hear both sides and decide the applicable timeframes; and

- 85.5. It was contemplated between the parties that Mr Zuma would return to the Commission to give further evidence following the above exchanges. The above process was contemplated as possibly shortening the time period required for Mr Zuma's further testimony.
86. The schedule of the areas of interest was forwarded to Mr Zuma's counsel on 30 July 2019. In the covering letter accompanying the schedule, Mr Zuma was advised that the Chairperson had directed that Mr Zuma give evidence for three weeks, and had directed that Mr Zuma should return to give evidence from 14 October to 25 October 2019 and then from 11 November to 15 November 2019. The letter also recorded the agreement that Mr Zuma would provide the Commission with sworn statements dealing with the areas of interest, before he returned to the Commission to give evidence, and that the parties would meet to agree a mutually convenient timetable for this. A copy of this letter (with the areas of interest schedule) is attached as "IM18".
87. On 16 August 2019, Mr Zuma's legal representatives responded by objecting to the unilateral setting down of dates for the further appearance of Mr Zuma, contending (incorrectly) that this was contrary to the agreement reached. This letter is attached as "IM19". In a further letter to the Commission dated 4 September 2019, Mr Zuma's attorneys noted various events that had occurred since he last gave evidence, including further evidence before the Commission relevant to his testimony and a claim for defamation brought by Mr Hanekom against Mr Zuma. It was suggested in the letter that Mr Zuma be called "at the end of all the evidence which implicates him". This letter is attached as "IM20".



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88. In a letter dated 10 September 2019 the Commission confirmed that the dates allocated in October and November 2019 were the dates determined by the Chairperson, and would stand unless changed by the Chairperson, which he might do if sound and cogent reasons were provided to him. The letter conveyed the Chairperson's concern that the Commission was required (at that stage) to complete its work by the end of February 2020. This letter is attached as "IM21".
89. On 12 September 2019 Mr Zuma's attorneys confirmed that he would "provide his answers" to the areas of interest previously provided to him. This letter is attached as "IM22".
90. In a subsequent letter dated 17 September 2019, attached as "IM23", Mr Zuma's attorneys advised the Commission that Mr Zuma was scheduled to appear in the criminal court in the Pietermaritzburg High Court during the week of 14 October 2019, and therefore that the dates for Mr Zuma's appearance at the Commission of 14 to 25 October 2019 were not suitable to him. They further advised that Mr Zuma "[would] attend the Commission hearing on the week of the 11 to 15 November 2019 as proposed to proceed with his evidence." (No formal application was made to the Chairperson requesting that the dates previously directed by him be changed.)
91. The Commission addressed two letters to Mr Zuma's attorneys on 27 September 2019.
- 91.1. The first letter contained the Chairperson's direction that Mr Zuma "is directed to deliver to the Commission on or before Friday 4 October



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2019 his affidavit(s) contemplated in terms of the agreement announced by the Chairperson in "the Commission on 19 July 2019". The letter is attached as "IM24A".

91.2. The second letter conveyed the Chairperson's directions pertaining to Mr Zuma's appearance at the Commission scheduled for October and November 2019. It is attached as "IM24B". It advised that the Chairperson had directed that:

91.2.1. "[the Chairperson] excuses the former President from appearance before the Commission on the day or days on which he is required to appear before the criminal court in Pietermaritzburg but you are required to specify that date or those dates";

91.2.2. "In respect of any other dates set aside for the former President's appearance before the Commission on which the former President will not be appearing in the criminal court in Pietermaritzburg, he is not excused from appearance at this stage but, should he wish to be excused, a substantive application should be made to the Commission for an order excusing him from appearance before the Commission on the date or dates in question or for an order varying or amending the dates currently fixed for his appearance before the Commission...";

91.2.3. "if a substantive application ... is delivered to the Commission and is granted by the Chairperson, the former President will not be required to appear on the day or days on which the Chairperson

will have excused him from appearing before the Commission; if, however, no application ... is delivered or one is delivered but is dismissed by the Chairperson, the former President will be required to appear before the Commission on all the days on which he will not have been excused from appearing before the Commission.”

91.3. No application as contemplated in the Chairperson’s direction was brought by Mr Zuma.

92. On 30 September 2019, the Commission advised Mr Zuma that the Chairperson had revised his directions of 27 September to allow Mr Zuma to make representations to the Chairperson for an extension of the 4 October 2019 deadline for the submission of his affidavit(s), should there be serious difficulties with complying with the date. This letter is attached as “IM25”. No such application was brought by Mr Zuma.
93. On 30 September 2019, Mr Zuma’s attorneys requested an indulgence to provide the Commission with the answers to the areas of interest by 20 October 2019. In a further letter on 30 September 2019, Mr Zuma’s attorneys again accused the Commission (incorrectly) of renegeing on its stance that further dates for the appearance of Mr Zuma would be agreed. However a commitment was also given that Mr Zuma would attend the Commission proceedings from 11 to 15 November 2019. These letters are attached as “IM26”.

94. On 4 October 2019, the Commission responded to Mr Zuma's attorneys in a letter conveying the Chairperson's instructions regarding Mr Zuma's appearance at the Commission and filing of his affidavit(s). This letter is attached as "IM27". The Commission advised that—

94.1. The Chairperson had decided to excuse Mr Zuma from appearing before the Commission during the week starting on Monday 14 October 2019. This was done even though Mr Zuma might only be required to appear in the criminal court in Pietermaritzburg on one of those five days, namely, 15 October 2019, as it was anticipated that Mr Zuma might need the end of that week for final preparation for his appearance before the Commission the following week, namely the week of 21 to 25 October 2019. To compensate for the loss of the week of 14 to 18 October 2019, the Chairperson would determine another week in November for the further appearance of Mr Zuma before the Commission.

94.2. The Chairperson had not excused Mr Zuma from appearing before the Commission from 21 to 25 October 2019 and, if Mr Zuma sought to be excused from such appearance, a substantive application had to be brought. It was also noted that Mr Zuma had committed himself to appearing before the Commission from 11 to 15 November 2019.

94.3. The Chairperson had extended the due date for submission of Mr Zuma's affidavits to 14 October 2019.



95. On 15 October 2019 Mr Zuma's attorneys advised the Commission that Mr Zuma and his legal team were not available to attend the proposed sitting of the Commission in October 2019. The reason given was that Mr Zuma was required to submit and argue an application for leave to appeal in his criminal matter. No formal application was brought in respect of the contemplated and directed October appearance. This letter is attached as "IM28".
96. Mr Zuma failed to deliver any affidavit by 14 October 2019 or thereafter.
97. On 1 November 2019, Mr Zuma's attorneys informed the Commission that, due to illness, Mr Zuma would not be able to attend the Commission hearing from 11 November 2019. The letter stated that Mr Zuma would keep the Commission "updated on his recovery process". This letter is attached as "IM29". No formal application in regard to the above communication was brought. On 4 December 2019 the Commission was informed by Mr Zuma's attorneys that Mr Zuma was "ill and is currently hospitalized".

**Wasted hearing time occasioned by Mr Zuma's failure to appear**

98. As is evident from the facts outlined above, Mr Zuma's failure or refusal to appear before the Commission totalled no less than five weeks of scheduled hearing time. This is apart from the dates of 16 to 20 November 2020, which were also lost as a result of Mr Zuma's belated application for recusal and his walk-out of the Commission's proceedings.

99. Despite the clear directions and procedural directives of the Chairperson, no formal application was ever brought by Mr Zuma to excuse his non-compliance with them.
100. Against this background, and following Mr Zuma's failure to appear at the hearings of the Commission for three weeks in October and November 2019, the Commission's Legal Team decided to apply to the Chairperson of the Commission for the authorisation of a summons compelling Mr Zuma to attend. The Commission's Legal Team advised Mr Zuma's attorneys accordingly on 17 December 2019, in a letter attached as "IM30".

**The Commission's application for a summons and regulation 10.6 directions**

101. The application for the summons was filed and delivered on 19 December 2019. Mr Zuma was called upon to file a notice of opposition and answering affidavit by 6 January 2020 if he was inclined to oppose the application. It was intended that the application would be made on 14 January 2020, and that the summons would require Mr Zuma's appearance for examination at the Commission on 27 to 31 January 2020 (both days inclusive). I attach a copy of the Notice of Application as "IM31".
102. On 6 January 2020, Mr Zuma's attorneys advised the Commission that their offices had been closed and that they had only received the application on returning to the office that day. They gave notice of Mr Zuma's intention to oppose the application for a summons, and undertook to file his answering affidavit before close of business on 10 January 2020. However, on 10 January 2020, Mr Zuma's attorneys advised the Commission that his



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answering affidavit in the application for the summons could not yet be filed as Mr Zuma had "undergone a medical surgery procedure on the 6 and 09 January 2020". These two letters are attached as "IM32" and "IM33".

103. At 16h02 on 13 January 2020, on the eve before the scheduled hearing of the application on 14 January, Mr Zuma filed a bulky answering affidavit of 105 pages (excluding the annexures). One of the grounds advanced by Mr Zuma in his affidavit opposing the application for a summons was that he was then scheduled to receive medical treatment abroad which would result in his unavailability to appear before the Commission until the end of March 2020 (which was beyond the then-lifespan of the Commission).
104. In his answering affidavit, Mr Zuma also stated that *"I will be sending the Commission my responses to the areas of interests sent to me. This was already prepared but could not be completed when I fell ill"*. To date, no affidavit dealing with the areas of interest has been delivered by Mr Zuma.
105. The belated filing of Mr Zuma's answer in the summons application necessitated a postponement of the hearing. The matter was postponed by agreement on 14 January 2020 to allow for reply. The Chairperson accepted that Mr Zuma need not appear at the Commission on 27 to 31 January 2020 with the consequence that the summons would be amended with such future dates as determined by the Chairperson.
106. On 10 August 2020, Mr Zuma was informed, through his attorneys, that the Chairperson had determined the dates of 21 to 25 September 2020 (both dates inclusive) as dates for his next appearance. A further letter dated 18



August 2020 was sent to Mr Zuma, through his attorneys, dealing with his next appearance and informing him that the Commission's Legal Team believes that they are no longer bound by the 19 July 2019 agreement that Mr Zuma will file his affidavit of response to the areas of interest and that "*Mr Zuma has failed to furnish the Commission with any affidavit contemplated in that agreement*". These letters are attached as "IM34" and "IM35" respectively.

107. On 27 August 2020, the Chairperson issued a formal directive under regulation 10(6) that was delivered on the following day, directing Mr Zuma to deliver, on or before 18 September 2020, an affidavit or affirmed declaration dealing with the allegations set out in (i) the affidavit of Mr Andile Zola Tsotsi dated 13 February 2020; (ii) the statement and affidavit of Mr Nicholas Hugh Linnell dated 21 November 2017 and 9 March 2019 respectively; and (iii) the affidavit of Mr Tshediso John Matona dated 17 March 2020. This directive was delivered to Mr Zuma, care of his attorneys on 28 August 2020. This directive is attached as "IM7".
108. To date, Mr Zuma has not complied with this regulation 10(6) directive.
109. On 28 August 2020 the Commission sent a Notice of Set Down for the hearing of the application for a summons on 9 September 2020. This Notice was sent to Mr Zuma's new attorney, Mr Eric Mabuza of Mabuza Attorneys (who came on record for Mr Zuma on 21 April 2020).
110. In response to the Notice of Set Down, on 31 August 2020, Mr Zuma's attorneys wrote to the Secretariat informing it that inter alia "[w]e regret to

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inform you that due to prior commitments our counsel are not available on 9 September 2020. We trust that you will reschedule the hearing of the application to another date suitable to all parties.” A further letter was sent on 1 September 2020, advising that Mr Zuma’s new attorneys needed time to familiarise themselves with the documentation, and taking issue, inter alia, with the unilateral set down of the hearing on 21 to 25 September 2020. These letters are attached as “IM36” and “IM37”.

111. On 8 September 2020, the Chairperson issued another formal directive under regulation 10(6), which was hand-delivered to Mr Zuma, through his attorneys on 11 September 2020, directing him to deliver on or before 28 August 2020 an affidavit or affirmed declaration that deals with the allegations set out in the affidavit of Mr Popo Molefe dated 17 February 2020. This directive is attached as “IM8”.
112. To date, Mr Zuma has not complied with this regulation 10(6) directive.
113. On 18 September 2020, the Commission informed Mr Zuma, through his attorneys, that the application for the summons was set down for hearing on 9 October 2020 and would proceed in the absence of Mr Zuma or his legal representative “unless the Chairperson is satisfied that there are good grounds why it should not proceed”. Mr Zuma was invited to present argument remotely on the 9 October 2020, alternatively to propose a date earlier than this for the matter to be heard. Mr Zuma was also invited to submit written argument for the Chairperson to take into account in deciding the application. In a separate letter, Mr Zuma was informed that the



Chairperson had determined the dates of the 16th to the 20th November 2020 at 10h00 as the next dates for Zuma's appearance before the Commission (which dates would be reflected in the amended application for the summons). These letters are attached as "IM38". These dates were then confirmed in the public hearing of 21 September 2020.

114. In response to the set down notice, Mr Zuma's attorneys addressed a letter to the Commission dated 28 September 2020 indicating that they intended to bring an application for the Chairperson's recusal. This letter is attached as "IM39". Mr Zuma's attorneys stated (in paragraph 12) as follows:

"Until this application for your recusal is finally determined, President Zuma will take no further part in this Commission and the Chairperson is entitled to take any such step as he deems lawful and appropriate. We reiterate that President Zuma has questioned the lawfulness of the establishment of the Commission. He persists with this issue and reserves all his rights in this regard."

115. No such application for the Chairperson's recusal was brought before the hearing on 9 October 2020.

#### **MR ZUMA WAS LAWFULLY SUMMONED**

116. After hearing argument from the Commission's Legal Team on 9 October 2020 (Mr Zuma and his representatives did not attend the hearing), the Chairperson authorised the issuing of a summons for Mr Zuma to appear on 16 November 2020 to 20 November 2020 (both dates inclusive).

117. It bears noting that Mr Zuma has never contested the Commission's power to summon a witness in terms of section 3(1) of the Commissions Act. Rather, his opposition to the application for authorisation of a summons took issue with (1) the necessity of the summons on the basis of his alleged willingness to co-operate; and (2) his non-availability to appear on the January 2020 dates determined by the Chairperson for medical reasons. In regard to his alleged willingness to co-operate, the power of the Commission to issue summons is not contingent on the prior failure of a witness to willingly co-operate. Thus any claim of Mr Zuma's purported willingness to co-operate does not bear on the lawfulness of the Commission's exercise of its compulsion powers.
118. On 20 October 2020, I duly signed and issued the summons for Mr Zuma to appear as a witness before the Commission on 16 to 20 November 2020.
119. The summons was validly served on Mr Zuma as required by law.
120. On 20 October 2020, the Deputy Sheriff of Nkandla, Mr Ndumiso Mthembu, served the summons at Mr Zuma's residence by handing a copy thereof to Ms Mthonsi, a police officer employed at the residence. On 22 October 2020, the sheriff of Nkandla, Mr Satheseelan Chetty, went to Mr Zuma's residence in Nkandla and made a second attempt to effect personal service. Although Mr Zuma was present at his residence, his secretary, Ms N.A. Ngcobo, insisted that it was not possible for the document to be served on him personally. She informed Mr Chetty that Mr Zuma had instructed her to accept the document on his behalf. Mr Chetty's affidavit which outlines his attempts to serve

personally on Mr Zuma is attached as "IM40". At the Commission's request, Deputy Sheriff Mr Mthembu made a third attempt at personal service on 29 October 2020, but Mr Zuma was not at home on this occasion.

121. Mr Zuma's attorneys confirmed by way of an email on 19 October 2020 that their offices would accept service of a copy of the summons. A copy of the summons was accordingly sent to Mr Zuma's attorneys on 23 October 2020. In light of the difficulties encountered by Mr Chetty in effecting personal service, the Commission sent a further letter dated 27 October 2020 seeking confirmation from Mr Zuma's attorneys that they and their client acknowledge valid service of the summons. On 29 October 2020, Mr Zuma's attorneys confirmed that they were indeed mandated to accept the summons on Mr Zuma's behalf. Formal service of the summons was then effected on Mr Zuma's attorneys on 30 October 2020. The returns of service of 20, 22 and 30 October 2020 are attached in a bundle marked "IM41".

122. Mr Zuma was thus duly summoned to appear before the Commission on 16 November 2020 to 20 November 2020 (both dates inclusive).

## **MR ZUMA'S DUTY TO COMPLY WITH THE SUMMONS AND THE CHAIRPERSON'S DIRECTIONS**

### **The nature and sources of the duty**

123. Under section 3(1) of the Commissions Act and regulation 10(6) of the Commission's Regulations, the Commission has the power –

- 123.1. to summon witnesses, to cause an oath or affirmation to be administered to them, to examine them, to call for the production of books, documents and objects, and
- 123.2. to direct that any person submit an affidavit or sworn statement which has a bearing on the matter being investigated.
124. A failure, without sufficient cause, to respond to a summons or a regulation 10(6) direction is a criminal offence.<sup>27</sup> Persons who are subject to summons or regulation 10(6) direction are duty-bound to comply.
125. When giving evidence before the Commission, witnesses (including Mr Zuma) do not have a right to remain silent in proceedings before the Commission. The right to remain silent is only available to an arrested or accused person in criminal proceedings. The Commission is empowered to compel *any* person – irrespective of his or her status as a suspect, arrested or accused person – to give evidence before the Commission.
126. While implicated persons arguably retain the privilege against self-incrimination they cannot avoid testifying on the basis merely that adverse findings may be made against them, even findings that may recommend criminal prosecution. The privilege against self-incrimination cannot be relied on to resist appearing as a witness or to refuse to answer at all (i.e. to remain silent). Rather, the privilege must be claimed in respect of each question<sup>28</sup> and the judicial officer, before allowing the claim of privilege, must satisfy

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<sup>27</sup> Section 6(1) of the Commissions Act and Regulation 12(2)(d).

<sup>28</sup> *R v Kuyper* 1915 TPD 308 at 316.

himself that "there is reasonable ground to apprehend danger to the witness from his being compelled to answer".<sup>29</sup> This danger must be "real and appreciable and not of an imaginary and unsubstantial character".<sup>30</sup>

127. I am advised and submit that these statutory duties are reinforced and bolstered by the special constitutional obligations that vest in Mr Zuma, to remain accountable for his conduct as the President of the Republic.

128. This entails, first and foremost, a duty to be open, responsive and accountable, as the erstwhile holder of the highest public office, about the exercise of that public power and compliance with his ethical obligations under section 96 of the Constitution. The constitutional obligation of accountability flows from the specific constitutional duties vested in the President of the Republic under section 83(b) and (c), read with section 1(d) and section 96 of the Constitution and the President's constitutional oath of office.

129. The constitutional duty of openness, responsiveness and accountability has, I submit, particular force where allegations of corruption are concerned, given its tendency to strike at the very foundations of constitutional democracy and undermine the commitment to the Bill of Rights.

130. Mr Zuma's duty to cooperate with the Commission also flows from the remedial action in the Public Protector's State of Capture Report (which specifically directed the Commission to investigate Mr Zuma's conduct and

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<sup>29</sup> *R v Boyes* (1861) 1 B & S 311 at 330, 121 ER 730 at 738.

<sup>30</sup> *S v Carneson* 1962 (3) SA 437 (T) at 439H.

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compliance with section 96 of the Constitution). Compliance with the Public Protector's remedial action is a constitutional obligation under section 182(1)(c). Mr Zuma's failure to cooperate with the Commission, and give an account on the matters required for its investigation, undermines the effectiveness of the Public Protector's remedial action, in breach of section 182(1)(c).

131. Further, a commission of inquiry established by the President under section 84(2)(f) has a special constitutional purpose, which requires respect and protection by all public office-bearers – including Mr Zuma, who remains obliged to comply with his duties insofar as this is possible, in accordance with his oath of office. The commission of inquiry is a special constitutional mechanism for fact-finding; for uncovering the truth in matters of public concern; and for promoting transparency and accountability, in the public interest. Mr Zuma's failure to cooperate with the Commission and give an account on the matters required for its investigation undermines the constitutional purpose of section 84(2)(f).
132. Mr Zuma's failure to comply with the Commission's summons and Chairperson's directions is, accordingly, a breach of the former President's ongoing duty to be accountable for his conduct during his term as President and the constitutional obligations flowing from sections 84(2)(f) and 182(1)(c).



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**Mr Zuma's duty to comply with the summons was not affected by the recusal decision and his pending review**

133. After Mr Zuma had been notified by the commission that the Chairperson had determined 21 to 25 September 2020 as the dates for his appearance before the Commission, his attorneys addressed a letter to the Commission. They said that Mr Zuma would not appear before the Commission on those dates because among other reasons, he was preparing for his criminal trial, he had been advised to limit his movement in the light of his advanced age and Covid-19, he was seeking legal advice on certain amendments to the Commission Regulations of the Commission and he was involved in other cases. The letter is attached marked **IM42**.

134. Following upon this letter, the Chairperson announced on 21 September 2020 that he had determined 9 October 2020 as the date when the Commission's Legal Team's application for the authorisation of the summons to be heard and that he had determined the dates 16 to 20 November 2020 as the dates for appearance of Mr Zuma before the Commission.

135. The Chairperson made it clear in his announcement that, if Mr Zuma or his lawyers did not appear on 9 October 2020, and did not furnish any good reason for the non-appearance, the application would be heard even if they were not present. He also emphasised that the Commission did not negotiate dates for appearance with witnesses.

136. In response to the Chairperson's announcement of 21 September 2020, Mr Zuma's attorneys wrote a letter dated 28 September 2020 in which, for the



first time, Mr Zuma said he would seek the Chairperson's recusal and alleged that he was biased against him because of some historical, personal, professional and family relationship between the two of them. In that letter Mr Zuma alleged that the Chairperson's alleged bias against him arose from "strained relations" between them but provided no details. In that letter Mr Zuma said that he would bring an application for the Chairperson's recusal and that, until that application was determined, he would not take any part in the Commission. In his founding affidavit in support of his application for the Chairperson's recusal, Mr Zuma did not pursue the point about alleged "strained relations" between him and the Chairperson.

137. The impartiality of the Chairperson had never been called into question before the Chairperson's announcement of 21 September 2020. Further, although the letter dated 28 September 2020 threatened that an application for recusal would "be made soon", no such application was brought until the date scheduled for Mr Zuma's appearance in terms of the summons, namely 16 November 2020.
138. The delay in bringing the recusal application had the effect of delaying and frustrating compliance with the summons. Instead of Mr Zuma commencing with his examination on 16 November 2020, Mr Zuma's belated application for recusal was heard on that day, with the consequence that he did not testify as scheduled. After hearing oral argument on the recusal application (which took up the whole of the day's proceedings on 16 November 2020), the Chairperson required time to consider and prepare his ruling. The Chairperson delivered his ruling on Thursday, 19 November 2020, and



dismissed the recusal application with reasons. No explanation has been given by Mr Zuma for not lodging his recusal application within a week or within two weeks (after his attorneys sent the Commission their letter of 28 September 2020 in which they threatened to bring the recusal application). If they had done so, the recusal application could have been decided well before the week of 16 November 2020.

139. I am advised and submit that Mr Zuma's intended application for the review of the Chairperson's recusal decision did not alter Mr Zuma's duty to comply with the summons. The summons was lawfully issued and served, and had to be obeyed, notwithstanding the fact that Mr Zuma's legal representatives indicated an intention to bring review proceedings in respect of the Chairperson's recusal decision.
140. Likewise, I am advised and submit that Mr Zuma's intended application for the review of the recusal decision does not alter Mr Zuma's duty to comply with the fresh summons issued against him by the Commission for his attendance and examination in January and February 2021. Those summonses too have been validly issued and served, and must be obeyed, notwithstanding the fact that Mr Zuma's legal representatives have indicated an intention to apply for review of the Chairperson's recusal decision. The recusal decision is not suspended pending Mr Zuma's application for review, and such review has in any event not yet been instituted.
141. The Commission's powers to secure the attendance of witnesses, the production of documents and the full and satisfactory answering of relevant



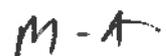
questions are intended to enable the Commission to fulfil in its mandate of uncovering the truth, and thus should not be allowed to be frustrated by any person, least of all the former President of the Republic who should be exemplary in his respect of the law.

142. This Court has described the obligation to honour a subpoena to attend an inquiry as "*a civic obligation recognised in all open and democratic societies and not an invasion of freedom*".<sup>31</sup> Mr Zuma's civic duty to comply with a summons takes on a distinctive constitutional complexion in the proceedings of the Commission, by virtue of the fact that he has been called to account for his conduct during his term of office as President and to respond to serious allegations that strike at the heart of our constitutional democracy.

#### **APPROPRIATE RELIEF AND COSTS**

143. Section 172(1)(b) of the Constitution empowers this Court, when deciding a constitutional matter, to "make any order that is just and equitable".
144. Declaratory relief is necessary to make it clear to Mr Zuma that his conduct in walking out of the Commission on 19 November 2020 without the Chairperson's permission; that his conduct in not complying with the Commission's summons and the Chairperson's binding directives is unlawful; and that he is obliged to comply with any summons validly issued by me and validly served on him.

<sup>31</sup> *Bernstein and Others v Bester and Others* NNO 1996 (2) SA 751 (CC) at para 52.

145. To the extent that Mr Zuma may contend that he thought that the dismissal of his recusal application or the fact that he intended to take the Chairperson's recusal decision on review entitled him to leave the proceedings without the Chairperson's permission, which I do not think he can legitimately contend, the declaratory order, if granted, will make it clear that this is not so. It is therefore appropriate that declaratory relief be granted, both in respect of Mr Zuma's duty to appear before the Commission for examination and his duty to answer questions that will be put to him under examination.

146. But declaratory orders will not suffice to ensure the responsiveness that is required without delay. That requires an order directing Mr Zuma to comply with –

146.1. the summons issued on 26 November 2020 requiring Mr Zuma's attendance for examination at the Commission on 18 to 21 January 2021;

146.2. the summons issued on 30 November 2020 requiring Mr Zuma's attendance for examination at the Commission on 15 to 19 February 2021; and

146.3. the directions issued by the Chairperson under regulation 10(6) that Mr Zuma furnish his versions and responses to certain witnesses on affidavit.



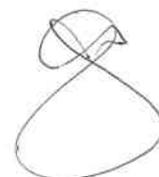
147. I am advised and submit that the requirements for a final interdict are met, namely: (i) a clear right; (ii) an injury to the right actually committed or reasonably apprehended; and (iii) the lack of a suitable alternative remedy.

147.1. The Commission has a clear right to require the appearance and examination under oath of persons, and to direct any person to submit an affidavit, on any matter being investigated for the purposes of its investigations, under section 3(1) of the Commissions Act and regulation 10(6) of the Commission's Regulations. This right is bolstered by the constitutional obligations that continue to vest in the erstwhile President of the Republic.

147.2. Mr Zuma has injured and threatened the aforesaid rights by failing to comply with the previous summons and the Chairperson's directions under regulation 10(6).

147.3. There is no suitable alternative remedy available. No other remedy will secure Mr Zuma's compliance with the fresh summons and directions issued by the Chairperson for submission of affidavits before the Commission's term expires.

148. In the event that this application is opposed by Mr Zuma, the Commission seeks a punitive order of costs against him, on an attorney – own client scale. I am advised and submit that this Court will grant punitive costs to express its displeasure at the objectionable conduct of a litigant – including reckless conduct, bad faith, or a serious dereliction of duty.



67

M. A.

149. I submit that a punitive costs order is justified in this case for the following reasons:

149.1. Mr Zuma's protracted failure to cooperate with the Commission, despite the Commission's best efforts to accommodate him and despite the fact that he himself established the Commission;

149.2. The following acts of non-compliance require emphasis:

- First, in 2018 Mr Zuma was asked to file an affidavit in respect of Ms Mentor and Mr Maseko's evidence. Two years later, Mr Zuma has not filed it.
- Second, Mr Zuma has never given an explanation for his failure as aforesaid.
- Third, although he reached an agreement with the Commission's legal team, announced publicly by the Chairperson with regard to the delivery of affidavits by him to the Commission, Mr Zuma has not delivered those affidavits to date.
- Fourth, Mr Zuma has never furnished the Commission with any explanation for his failure to honour the agreement referred to above.
- Fifth, despite the fact that he was served with the Chairperson's directive of 27 August 2020 requiring him to



M.A.

deliver an affidavit within a certain specified period, Mr Zuma has failed to deliver such affidavit to date.

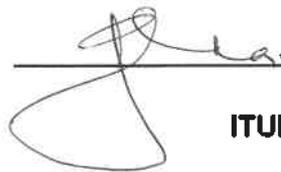
- Sixth, despite the Chairperson's directive of 8 September 2020, requiring him to furnish an affidavit, Mr Zuma has to date failed to furnish the affidavit to date.
- Seventh, Mr Zuma has not explained why he did not comply with these directives.
- Eighth, although Mr Zuma had been served with a summons requiring him to appear at the Commission from 16 to 20 November 2020, and not to leave without permission of the Chair, he left and did not return after the tea-break and did not return on 20 November 2020;
- Ninth, Mr Zuma appeared at the Commission during the week of 16 November 2020 with no genuine intention to cooperate and give evidence as he was required to do.

149.3. The public statements that Mr Zuma has allowed to be made on his behalf – by both his legal representative and the Jacob Zuma Foundation – that are directed at undermining the integrity and credibility of the Commission, its Chairperson and its important work in the public interest; and

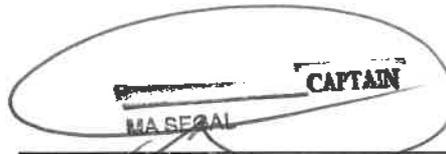


149.4. Mr Zuma's persistent and continued breach of the fundamental constitutional obligation of accountability.

150. In these circumstances, I pray for the relief set out in the Notice of Motion.

  
ITUMELENG MOSALA

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at BRANDFONTEIN on this the 03<sup>rd</sup> day of DECEMBER 2020, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, have been complied with.

  
MA SECAL  
CAPTAIN

COMMISSIONER OF OATHS

Full names: MOFFAT ARMSTRONGS SECAL  
Address: 1 CLAREBON PLACE HILBROW  
Capacity: CAPTAIN

Cell: 0716756018  
0823499070

SUID-AFRIKAANSE POLISIEDIENS  
STATION COMMANDER  
2020-12-03  
CLIENT SERVICE CENTRE  
HILBROW  
SOUTH AFRICAN POLICE SERVICE

*M. A.*

IM1

4 No. 41403

GOVERNMENT GAZETTE, 25 JANUARY 2018

## PROCLAMATIONS • PROKLAMASIES

## PROCLAMATION NO. 3 OF 2018

by the

**President of the Republic of South Africa**

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

In terms of section 84(2)(f) of the Constitution of the Republic of South Africa of 1996, I hereby appoint a Commission of Inquiry to investigate allegations of state capture, corruption and fraud in the Public Sector including organs of state with the terms of reference in the Schedule attached hereto and appoint Honourable Mr Justice Raymond Mnyamezeli Mlungisi Zondo, Deputy Chief Justice of the Republic of South Africa, as its Chairperson.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria  
on this the 23<sup>rd</sup> day of January Two Thousand and Eighteen.



**President**

By Order of the President-in-Cabinet:



**Minister of the Cabinet**



**SCHEDULE****TERMS OF REFERENCE****OF THE****JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO THE ALLEGATIONS  
OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR  
INCLUDING ORGANS OF STATE**

A Judicial Commission of Inquiry ("the Commission") is hereby appointed in terms of Section 84(2)(f) of the Constitution of the Republic of South Africa, 1996. The Commission is appointed to investigate matters of public and national interest concerning allegations of state capture, corruption, and fraud.

1. The Commission shall inquire into, make findings, report on and make recommendations concerning the following, guided by the Public Protector's state of capture report, the Constitution, relevant legislation, policies, and guidelines, as well as the order of the North Gauteng High Court of 14 December 2017 under case number 91139/2016: -

- 1.1. whether, and to what extent and by whom attempts were made through any form of inducement or for any gain of whatsoever nature to influence members of the National Executive (including Deputy Ministers), office bearers and/or functionaries employed by or office bearers of any state institution or organ of state or directors of the boards of SOE's. In particular,



the commission must investigate the veracity of allegations that former Deputy Minister of Finance, Mr Mcebisi Jonas and Ms Mentor were offered Cabinet positions by the Gupta family;

1.2. whether the President had any role in the alleged offers of Cabinet positions to Mr Mcebisi Jonas and Ms Mentor by the Gupta family as alleged;

1.3. whether the appointment of any member of the National Executive, functionary and /or office bearer was disclosed to the Gupta family or any other unauthorised person before such appointments were formally made and/or announced, and if so,

whether the President or any member of the National Executive is responsible for such conduct;

1.4. whether the President or any member of the present or previous members of his National Executive (including Deputy Ministers) or public official or employee of any state owned entities (SOEs) breached or violated the Constitution or any relevant ethical code or legislation by facilitating the unlawful awarding of tenders by SOE's or any organ of state to benefit the Gupta family or any other family, individual or corporate entity doing business with government or any organ of state;



M. A.

- 1.5. the nature and extent of corruption, if any, in the awarding of contracts, tenders to companies, business entities or organizations by public entities listed under Schedule 2 of the Public Finance Management Act No. 1 of 1999 as amended.
- 1.6. whether there were any irregularities, undue enrichment, corruption and undue influence in the awarding of contracts, mining licenses, government advertising in the New Age Newspaper and any other governmental services in the business dealings of the Gupta family with government departments and SOE's;
- 1.7. whether any member of the National Executive and including Deputy Ministers, unlawfully or corruptly or improperly intervened in the matter of the closing of banking facilities for Gupta owned companies;
- 1.8. whether any advisers in the Ministry of Finance were appointed without proper procedures. In particular, and as alleged in the complaint to the Public Protector, whether two senior advisers who were appointed by Minister Des Van Rooyen to the National Treasury were so appointed without following proper procedures;
- 1.9. the nature and extent of corruption, if any, in the awarding of contracts and tenders to companies, business entities or organizations by Government Departments, agencies and entities. In

particular, whether any member of the National Executive (including the President), public official, functionary of any organ of state influenced the awarding of tenders to benefit themselves, their families or entities in which they held a personal interest;

2. These Terms of Reference may be added to, varied or amended from time to time.
3. All organs of State will be required to cooperate fully with the Commission.
4. The Commissions Act, 1947 (Act No. 8 of 1947) shall apply to the Commission, subject to such amendments and exemptions as may be specified by proclamation from time to time.
5. The Commission shall submit its report and recommendations to the President within 180 days of the commencement of the Commission.
6. Regulations shall be made, after consultations with the presiding judge, in terms of the Commissions Act, 1947 and shall apply to the Commission in order to enable the Commission to conduct its work meaningfully and effectively and to facilitate the gathering of evidence by conferring on the Commission powers as necessary, including the power to enter and search premises, secure the attendance of witnesses and compel the production of documents.
7. The Commission shall where appropriate, refer any matter for prosecution, further investigation or the convening of a separate enquiry to the appropriate

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law enforcement agency, government department or regulator regarding the conduct of a certain person/s.

8. Regulations contemplated above shall also make provision for the resourcing and employment of staff of the Commission.

**PROKLAMASIE NO. 3 VAN 2018**

**deur die**

**President van die Republiek van Suid-Afrika**

**GEREGTERLIKE KOMMISSIE VAN ONDERSOEK TEN EINDE ONDERSOEK NA  
BEWERINGS VAN STAATSKAPING, KORRUPSIE EN BEDROG IN DIE  
OPENBARE SEKTOR MET INBEGRIIP VAN STAATSORGANE, IN TE STEL**

1. Ingevolge artikel 84(2)(f) van die Grondwet van die Republiek van Suid-Afrika, 1996 stel ek hierby 'n Kommissie van Ondersoek aan ten einde ondersoek in te stel na bewerings van staatskaping, korrupsie en bedrog in die Openbare Sektor, met inbegrip van staatsorgane, met die opdrag in die Bylae en stel ek hierby die Agbare Regter Raymon Mnyamezeli Mlungisi Zondo as Voorsitter, aan.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hierdie 23ste dag van Januarie 2018.

**President**

By Las van die President-in-Kabinet:

**Minister van die Kabinet**



GG-REFERENCE-043

IM2



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

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

**SUMMONS TO:  
APPEAR AS A WITNESS**

In terms of section 3(2) of the Commissions Act of 1947, read with:

- Proclamation 3 published in Government Gazette No. 41403 on 25 January 2018
- Government Notice No. 105 published in Government Gazette No. 41436 on 9 February 2018 (as amended)
- Rules of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State published in Government Gazette No. 41774 on 16 July 2018

Tracking reference:

**SPS17(g)/1181/PJP**

GG-REFERENCE-044

To the sheriff or his/her deputy of Nkandla HL

**INFORM:**

MR. JACOB GEDLEYIHLEKISA ZUMA

**OF**

KWADAKWADUNUSE HOMESTEAD,

KWANXAMALALA, NKANDLA,

KING CHETSWAYO DISTRICT,

KWAZULU-NATAL

that he is hereby summoned to:

appear before the Commission personally at the Civic Centre, 158 Civic Boulevard, Braamfontein, Johannesburg from **16 November 2020 to 20 November 2020 (both dates inclusive)** at **10h00am on each such day** for the purpose of giving evidence before the Commission and being questioned about any matter being investigated by the Commission, and in particular matters arising from the affidavits or statements listed in Annexure 'A' hereto.

Please take notice that should you make appropriate arrangements with the Commission prior to the dates referred to above to give evidence via video link, and you subsequently give evidence on those days via video link, that will be deemed to be sufficient compliance with this summons.

**Your failure to comply with the above without sufficient cause constitutes an offence under section 6(1) of the Commissions Act 8 of 1947.**

**DATED at Parktown on this 20th day of OCTOBER 2020.**



Prof. Itumeleng Mosala

**SECRETARY:**

**Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud  
in the Public Sector Including Organs of State**



**Annexure 'A'**

1. Themba Mveli James Maseko : 22 June 2017; 24 August 2017; 04 September 2019
2. Mabel Patronella Mentor : 25 July 2018
3. Nhlanhla Musa Nene : 01 October 2018
4. Pravin Gordhan : 11 October 2018
5. Barbara Hogan : 30 July 2018; 08 October 2018
6. Ngoako Abel Ramathodi : 07 November 2018
7. Mahlodi Sam Muofhe : 16 November 2018
8. Fikile Mbalula : 18 March 2019
9. Angelo Agrizzi : 15 January 2019; 26 March 2019
10. Mxolisi Sandile Oliver Nxasana : 11 June 2019
11. Brent Adrian Simons : 09 August 2019
12. Abegnigo Hlungwani : 22 August 2019
13. Meliswe Mildred Oliphant : 07 October 2019
14. Makaringe Richard Baloyi : 11 October 2019
15. Yasmin Duarte : 07 October 2019; 07 October 2019
16. Samson Gwede Mantashe : 07 October 2019; 07 October 2019
17. Zwelini Lawrence Mkhize : 08 October 2019
18. Rajesh Sundaram : 05 April 2019; 29 April 2019
19. Miriam Phumla Williams : 16 August 2018; 22 February 2019
20. Sipiwe Nyanda : 02 November 2018; 11 December 2019
21. Trevor Andrew Manuel : 11 October 2018; 14 February 2019
22. Johan Wessel Booysen : 02 April 2019; 09 April 2019; 15 April 2019
23. Nonkululeko Sindane : 16 May 2019
24. Kobus Demeyer Roelofse : 27 August 2019
25. Lizo Njenje : 01 August 2019; 20 August 2019
26. Rieaz Shaik : 21 November 2019
27. Ronald Shingange : 12 December 2019
28. Mr Y : 28 January 2020
29. Abdurrazack "Zackie" Achmat : 13 February 2020
30. Popo Simon Molefe : 17 February 2020

GG-REFERENCE-046

The said affidavits or statements have been provided to your present legal representatives on 24 April 2020 and 30 April 2020.

Your former legal representatives were provided with all affidavits or statements until the date on which your present legal representatives confirmed their mandate to represent you on 21 April 2020.



M. A.

**IM3**

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

In the matter between:

**Jacob Gedleyihlekisa Zuma**

Applicant

**In re: Application for recusal of the Chairperson of the Commission**

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**Ruling / Judgment: 19 November 2020**

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**ZONDO DCJ, Chairperson**

Introduction

1. This is an application brought by Mr Jacob Gedleyihlekisa Zuma for my recusal as Chairperson of this Commission or for my recusal from hearing any evidence that may be given by him or any member of his family in this Commission. Mr Zuma, to whom I shall refer in this ruling/judgment as the applicant, is a former President of the Republic of South Africa. On 22 October 2020 the applicant was served with a summons issued and signed by the Secretary of the Commission requiring or compelling him to appear before the Commission at 10h00 on 16 to



20 November 2020 for the purpose of giving evidence and being questioned by an evidence leader in the Commission. The scope of his evidence was to cover about 35 affidavits or so of certain witnesses who have already testified before the Commission.

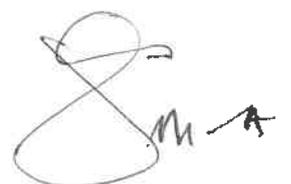
2. On Wednesday, 11 November 2020 the applicant lodged with the Commission an application for my recusal. The application was set down for hearing before me. It was opposed by the Secretary of the Commission. He delivered an answering affidavit during the weekend of the 14 November 2020. A replying affidavit by the applicant was delivered in the evening on Sunday 15 November 2020. Under circumstances that will be apparent from this judgment or ruling later, I read a certain statement into the record at the commencement of the proceedings on Monday, 16 November 2020. A copy thereof was given to the applicant's attorneys as well as the Commission's Legal Team. Subsequently, the applicant delivered another affidavit on Wednesday 18 November 2020. I heard oral argument from counsel for the applicant, Mr Sikhakhane SC, who was assisted by Mr T Masuku SC, as well as argument from Mr PJ Pretorius SC, the Head of the Commission's Legal Team. Before I proceed, it is necessary to set out the background to this application.



M. A.

### Background

3. It is not necessary to set out the background to the establishment of the Commission in any great detail because that background is well-known. It suffices to point out that, in accordance with its name, the Commission was established to investigate, and, report on, allegations of State Capture, corruption and fraud in the public sector including organs of state. It was established by the applicant in January 2018 when he was still the President of the country. He did so pursuant to an order of the High Court, Pretoria, which gave effect to the then Public Protector's remedial action. In accordance with the Public Protector's remedial action and the order of the High Court, Pretoria I was selected by the Chief Justice and appointed by the applicant, as the then President of the Republic, as the Judge who would chair this Commission. My appointment was announced by the applicant in January 2018.
  
4. I am the sole member of the Commission. The Commission has a secretary who heads the Secretariat of the Commission. It also has its Legal Team as well as the Investigation Team. The Legal Team consists of a number of practising attorneys and advocates. The Investigation Team consists of various investigators.

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5. The terms of reference of this Commission – which were approved by the applicant when he was still President - include, apart from the provision that the Commission must investigate allegations of state capture, corruption and fraud in the public sector including organs of state, that the Commission must investigate and report on:

“1.1. whether, and to what extent and by whom attempts were made through any form of inducement or for any gain of whatsoever nature to influence members of the National Executive (including Deputy Ministers), office bearers and /or functionaries employed by or office bearers of any state institution or organ of state or directors of the boards of SOE's. In particular, the commission must investigate the veracity of allegations that former Deputy Minister of Finance, Mr Mcebisi Jonas and Ms Mentor were offered Cabinet positions by the Gupta family;

1.2. whether the President had any role in the alleged offers of Cabinet positions to Mr Mcebisi Jonas and Ms Mentor by the Gupta family as alleged;

1.3. whether the appointment of any member of the National Executive, functionary and /or office bearer was disclosed to the Gupta family or any other unauthorised person before such appointments were formally made and /or announced, and if so, whether the President or any member of the National Executive is responsible for such conduct;

1.4. whether the President or any member of the present or previous members of his National Executive (including Deputy Ministers) or public official or employee of any state owned entities (SOEs) breached or violated the Constitution or any relevant ethical code or legislation by facilitating the unlawful awarding of tenders by SOE's or any organ of state to benefit the Gupta family or any other family, individual or corporate entity doing business with government or any organ of state;

1.5. the nature and extent of corruption, if any, in the awarding of contracts, tenders to companies, business entities or organizations by public entities listed under Schedule 2 of the Public Finance Management Act No. 1 of 1999 as amended;

1.6. whether there were any irregularities, undue enrichment, corruption and undue influence in the awarding of contracts, mining licenses, government advertising in the New Age Newspaper and any other governmental services in the business dealings of the Gupta family with government departments and SOE's;

1.7. whether any member of the National Executive and including Deputy Ministers, unlawfully or corruptly or improperly intervened in the matter of the closing of banking facilities for Gupta owned companies;

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1.8. whether any advisers in the Ministry of Finance were appointed without proper procedures. In particular, and as alleged in the complaint to the Public Protector, whether two senior advisers who were appointed by Minister Des Van Rooyen to the National Treasury were so appointed without following proper procedures;

1.9. the nature and extent of corruption, if any, in the awarding of contracts and tenders to companies, business entities or organizations by Government Departments, agencies and entities. In particular, whether any member of the National Executive (including the President), public official, functionary of any organ of state influenced the awarding of tenders to benefit themselves, their families or entities in which they held a personal interest.”

6. Paragraph 3 of the terms of reference reads:

“All organs of State will be required to cooperate fully with the Commission.”

7. There are two ways in which a person may be compelled to appear before the Commission for purposes of giving evidence. The one is the issuing of a summons against such a person in terms of section 3(1)<sup>1</sup> read with (2)<sup>2</sup> of the

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<sup>1</sup> Section 3(1) reads:

“(1) For the purpose of ascertaining any matter relating to the subject of its investigations, a commission shall in the Union have the powers which a Provincial Division of the Supreme Court of South Africa has within its province to summon witnesses, to cause an oath or affirmation to be administered to them, to examine them, and to call for the production of books, documents and objects.”

<sup>2</sup> Section 3(2) reads:

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Commission's Act, 1947. The other is by the issuing of a directive by the Chairperson in terms of Regulation 10(6)<sup>3</sup> of the Regulations of the Commission. In terms of Regulation 10(6) the Chairperson also has the power to issue a directive to anybody to depose to an affidavit or affirmed declaration for the purposes of the investigations of the Commission. I have already said that the applicant was served with a summons to appear before the Commission this week. I have previously also issued two directives in terms of Regulation 10(6) against the applicant to furnish the Commission with affidavits dealing with certain matters. I will have reason to revisit this subject later in this ruling.

8. The Commission has been hearing oral evidence since August 2018 except for certain breaks it has taken. I understand that it has heard about 257 witnesses.
  
9. By way of an order of the High Court, Pretoria, the Commission's lifespan has been extended to the end of March 2021. Pursuant to an invitation extended to

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"A summons for the attendance of a witness or for the production of any book, document or object before a commission shall be signed and issued by the secretary of the commission in a form prescribed by the chairman of the commission and shall be served in the same manner as a summons for the attendance of a witness at a criminal trial in a superior court at the place where the attendance or production is to take place."

<sup>3</sup> Regulation 10(6) reads:

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

the applicant to appear before the Commission from 15 to 20 July 2019, the applicant appeared before the Commission for two and a half days or so. He gave evidence and was given an opportunity to present his side of the story and was questioned. However, while the applicant was being questioned, he objected to further questioning on the basis that he was being cross-examined. As a result of that objection a discussion ensued in terms of which an agreement was reached between the applicant's legal team and the Commission's Legal Team aimed at addressing the applicant's concerns regarding how he was questioned.

10. I announced the terms of the agreement at the hearing. One of the terms was that the Commission's Legal Team would, by 30 July 2019, furnish the applicant's legal team with a document that identified areas of interest in each affidavit in regard to which the applicant was required to provide his version. Another term was that the two teams would seek to agree the date by which the applicant would deliver his affidavits but that, if the two teams did not reach agreement, the matter would be brought to my attention and I would, after hearing both sides, determine the period within which the applicant would deliver his affidavits. Prior to the Commission's Legal Team reaching agreement with the applicant's legal team, the applicant informed the Commission through his legal team that the applicant had decided to terminate his participation in the Commission due to his dissatisfaction with how he had been questioned. However, the agreement that

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was reached included an undertaking by the applicant that he would continue to participate in the Commission and would, therefore, return on a later date to continue with his testimony.

11. Subsequent to the applicant's appearance before the Commission in July 2019, the Commission's Legal Team furnished the applicant's legal team with a document identifying "areas of interest" in various affidavits in respect of which the applicant was required to provide affidavits containing his versions. In other words, the Commission's Legal Team complied with its obligations under the agreement of July 2019. The applicant failed to agree with the Commission's Legal Team a period within which he would furnish the affidavits he had undertaken to furnish the Commission. Ultimately, I fixed a date by which the applicant had to deliver his affidavits. Nevertheless, the applicant failed to deliver those affidavits. Between July 2019 and mid December 2019 the Commission set aside various weeks for the applicant's appearance before the Commission but the attempts were unsuccessful.

12. Towards the end of 2019 the dates of 26 – 31 January 2020 were set aside for the applicant's appearance before the Commission and the applicant was notified. In December 2019 the Commission's Legal Team served the applicant with an

application for an order to be made by me authorising the issuing of a summons to compel the applicant to appear before the Commission on the specified dates in January 2020. The applicant delivered opposing affidavits. The application was set down for hearing. On the date when the application was to be heard, it was adjourned on the basis that another date would be allocated for argument. The application was adjourned because it appeared that, owing to medical reasons, the applicant was not going to be available to appear before the Commission until after March 2020. Also, the Commission's Legal Team needed time to prepare a replying affidavit to the applicant's answering affidavit in that application. The replying affidavit was delivered by the Commission's Legal Team in due course. Before the application could be set down for hearing, the state of national disaster was declared and the national lockdown was instituted with effect from 26 March 2020 to deal with Covid-19. From that time to 28 June 2020 the Commission did not have hearings. It resumed its hearings during the week of 29 June 2020.

13. By the beginning of the national lockdown, there was a great number of witnesses who had testified before the Commission in respect of whose evidence the applicant had been served with Rule 3(3) notices in terms of the Rules of the Commission. These are notices which are served on a person who is either implicated or who may be said to be implicated in a witness' statement.

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14. During August 2020 the applicant was notified that 21 – 25 September 2020 had been set down as the dates for the applicant to appear before the Commission. By the last week of August 2020 the applicant had not furnished the Commission with the affidavits he had undertaken in July 2019 to furnish to the Commission. On 27 August 2020 I signed the first ever Regulation 10(6) directive against the applicant which was issued soon thereafter and later served on the applicant. Through the Regulation 10(6) directive I sought to compel the applicant to deliver an affidavit or affidavits giving his version in response to the affidavits of Mr Popo Molefe in regard to the Commission's investigations into certain matters at PRASA. Around 11 September 2020 I signed another Regulation 10(6) directive seeking to compel the applicant to furnish the Commission with an affidavit giving his version to the affidavits of Mr Zola Tsotsi and Mr Nick Linnell with regard to a meeting that is alleged to have been held in the President's official residence in Durban on 8 March 2015.

15. On 1 September 2020 the applicant's attorneys wrote to the Acting Secretary of the Commission and said that the applicant would not be able to appear before the Commission on 21 to 25 September 2020. The reasons advanced were that:

- (a) the applicant's attorneys of record had been recently appointed as the applicant's attorneys and needed more time in order to familiarise

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themselves with all the documentation with which the applicant had been served by the Commission since the establishment of the Commission;

(b) the applicant was “preparing for his much-anticipated criminal trial, the importance of which cannot be over-emphasised.” The letter continued and said that it was “rather unfair to expect [the applicant] to simultaneously consider evidence and affidavits of more than 30 witnesses in order to make himself ready to appear before the Commission on 21 – 25 September 2020”;

(c) the applicant was of advanced age and, given Covid-19, he had been advised to limit his movements;

(d) the applicant had raised a concern regarding the recent amendments of certain Regulations of the Commission relating to the sharing of information with law enforcement agencies and was seeking legal advice “on the implications thereof on his further participation.”; and

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(e) the applicant was also engaged in several other cases which required his full attention.

16. In that letter the applicant's attorneys also noted that notice had been given of the intention of the Commission's Legal Team to proceed with the application for the authorisation of a summons to be issued against the applicant to compel him to appear before the Commission. The applicant's attorneys then said:

"It should follow that we must await the outcome of that application before we can discuss the possible appearance of [the applicant] at the Commission. We trust that the Commission will engage with us regarding the dates for the hearing of the application."

17. The applicant's attorneys emphasised that dates should have been discussed with them as the applicant's new legal team. They requested that future dates be discussed with them.

18. On the 21<sup>st</sup> September 2020, which had been meant to be the first day of the applicant's appearance before the Commission that week, I made an announcement at the commencement of the proceedings of the Commission. Since the applicant's attorneys had made it clear that the applicant was not going

to appear before the Commission during the week of 21 to 25 September 2020, the Commission made alternative arrangements in order to ensure that that week was not wasted.

19. The announcement that I made was that:

(a) the application for the authorisation of summons against the applicant was set down for hearing on 9 October 2020;

(b) if the applicant or his lawyers did not appear on the 9<sup>th</sup> October 2020 and did not provide good reasons why there was no appearance, the matter would proceed with or without them;

(c) the dates 16 to 20 November 2020 had been determined as the dates for the next appearance of the applicant before the Commission.

20. The applicant was to subsequently say that I had called a media conference and made this announcement at a media conference. That was not true as I had made the announcement at the commencement of the day's proceedings in the Commission.



M.A.

21. On the 28<sup>th</sup> September 2020 the applicant's attorneys wrote a letter to me in which, for the first time, the applicant said that he would be seeking my recusal as the Chairperson of the Commission. The applicant's attorneys said that they had been instructed to seek my recusal "on the ground that [the applicant] reasonably apprehends that you have already adopted a biased disposition towards him and cannot bring an impartial mind to [bear on] the issues and evidence that relate to him."
22. The applicant's attorneys went on to say that the applicant's conclusion that I was no longer capable of exercising an independent and impartial mind was fortified by what he viewed "as the unwarranted public statements made by the Chairperson at the said media briefing."
23. The applicant's attorneys went on to say that the applicant has "always expressed his willingness to cooperate with the Commission". They confirmed:

"This is in spite of his reservations about the legality of the Commission and, in particular, about your suitability as Chairperson, given your personal relations with him. However, the conduct of the Chairperson towards him has left [the applicant] with no choice but to take this step in order to defend his rights as a

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citizen. [The applicant] believes that the Chairperson's conduct has stripped this Commission of its much required and vaunted legitimacy."

24. The applicant's attorneys also stated in the letter:

"Viewed in the context of previous media statements, the conduct of the Chairperson and treatment of [the applicant] by the Commission, the Chairperson's utterances have left [the applicant] with the distinct impression that the Chairperson seeks to target him for special treatment and public humiliation."

25. In paragraph 9 of the letter, the applicant's attorneys wrote:

"[The applicant] believes that the source of the Chairperson's bias against him stems from the fact that [the applicant] and the Chairperson have historical personal, family and professional relations that ought to have been publicly disclosed by the Chairperson before accepting his appointment."<sup>4</sup>

26. This sentence in the applicant's attorneys' letter of 28 September 2020 makes it clear that, at least as at that time, the applicant believed that the source of my

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<sup>4</sup> What the applicant was saying in this sentence in his attorney's letter of 28 September 2020 was that the Chairperson was biased against him because of the alleged historical, personal and family relationship. However, in his founding affidavit the applicant said that he and the Chairperson are friends, and he does not understand why the Chairperson is now hostile to him. However, no evidence of hostility was provided by the applicant.



alleged bias against him stemmed from “the fact that [the applicant] and the Chairperson have historical personal, family and professional relations that ought to have been publicly disclosed by the Chairperson before accepting his appointment.”

27. In paragraph 10.3 of the letter the applicant’s attorneys wrote:

“[The applicant] is of the firm view that the Chairperson’s bias against him is a result of personal matters and strained relations that the Chairperson ought to have disclosed right at the beginning of the Inquiry.”<sup>5</sup>

28. In the letter of 28 September 2020 the applicant’s attorneys also listed what they said were “some of the other reasons to be set out in greater detail in the affidavit relating to the recusal application”. These were given as:

“10.1 The Chairperson’s election to reserve media conferences for [the applicant] attests to the fact that he seeks to portray him as uncooperative and belligerent in the eyes of the public. No other witness has been subjected to such public rebuke through the media;

10.2 It has become commonplace for the Commission to parade a particular narrative through witnesses and to treat certain witnesses, particularly those who

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<sup>5</sup> In the founding affidavit the applicant did not provide any evidence of the allegedly “strained relations”.

implicate [the applicant], with deference. It is apparent to [the applicant] that the Commission seeks to entrench a narrative that portrays him as guilty at all costs;

10.3 [The applicant] is of the firm view that the Chairperson's bias against him is a result of personal matters and strained relations that the Chairperson ought to have disclosed right at the beginning of the Inquiry;

10.4 The Chairperson, in his engagements with witnesses testifying before him, has already prejudged the very issues he is tasked to investigate. In particular, he has already made prejudicial statements about [the applicant] while addressing some witnesses who had made no reference to [the applicant].

10.5 The Chairperson refused to believe that [the applicant's] failure to appear before the Commission early this year was due to his travel to seek medical treatment, again publicly portraying him as a liar, and

10.6 The Chairperson has joined the narrative that seeks to present [the applicant] as the cause of all the corruption he is tasked to investigate.”

29. Before I proceed, I need to deal immediately with 10.5 above where it is said that “the Chairperson refused to believe that [the applicant's] failure to appear before the Commission early this year was due to his travel to seek medical treatment, again publicly portraying him as a liar”. I want to indicate that there is absolutely no evidence in the papers supporting this allegation against the Chairperson.

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30. The applicant's attorneys also pointed out that until the applicant's recusal had been determined, the applicant would not take any part in the Commission.

The recusal application

31. In his founding affidavit the applicant provides what he refers to as the synopsis of the grounds upon which he seeks my recusal. He says that those grounds may be summarised as follows:

“15.1 Given our personal relations, the background of which is set out fully below, Deputy Chief Justice Zondo ought to have declined to chair the Commission, whose terms of reference indicated that I was to be the main implicated person;

15.2 In my absence, the Chairperson has made several comments whose effect is the suggestion that I am already guilty of 'state capture'. Many of these comments carried with them a miscellany on insinuations about my involvement in the unlawful capture of our State while I was President; I am advised that it is not uncommon for judges to hear testimonies that may well outrage them but they remain composed in order to create a safe forum even for the accused. In this regard, they are guarded in the comments they make while hearing testimonies;

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15.3 The Chairperson has singled me out for public announcements relating to me through the media. I am the only witness in respect of whom so many press statements have been issued by the Chairperson;

15.4 The Chairperson clearly doubts my *bona fides*. On two occasions he questioned or doubted my statement that I had travelled to seek medical attention; and

15.5 The Commission has tended to call only those witnesses, particularly members of my Cabinet, that implicate me in some way or are disgruntled that at some point I may have removed them from their Cabinet posts.”

### The law

32. Counsel for the applicant submitted that the applicant’s case for my recusal is that the applicant has a reasonable apprehension that I will not bring an impartial mind to bear on the issues involving the applicant. He made it clear, however, that the applicant’s case was not based on actual bias.
33. In *President of Republic of South Africa & Others 1999 (2) BCLR 725 (CC)* the Constitutional Court had this to say about the importance of the impartial adjudication of disputes:

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“A cornerstone of any fair and just legal system is the impartial adjudication of disputes which come before the courts and other tribunals. This applies, of course, to both criminal and civil cases as well as to quasi-judicial and administrative proceedings. Nothing is more likely to impair confidence in such proceedings, whether on the part of litigants or the general public, than actual bias or the appearance of bias in the official or officials who have the power to adjudicate on disputes.”<sup>6</sup>

34. The test for the determination of a reasonable apprehension of bias was set out in these terms by the Constitutional Court in *SARFU*:

“The question is whether a reasonable, objective and informed person would on the correct facts reasonably apprehend that the judge has not or will not bring an impartial mind to bear on the adjudication of the case, that is a mind open to persuasion by the evidence and the submissions of counsel. The reasonableness of the apprehension must be assessed in the light of the oath of office taken by the judges to administer justice without fear or favour; and their ability to carry out that oath by reason of their training and experience. It must be assumed that they can disabuse their minds of any irrelevant personal beliefs or predispositions. They must take into account the fact that they have a duty to sit in any case in which they are not obliged to recuse themselves. At the same time,

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<sup>6</sup> SARFU at p170.

it must never be forgotten that an impartial judge is a fundamental prerequisite for a fair trial and a judicial officer should not hesitate to recuse herself or himself if there are reasonable grounds on the part of a litigant for apprehending that the judicial officer, for whatever reasons, was not or will not be impartial.”<sup>7</sup>

35. It is important to highlight that the person contemplated in the test must be reasonable, objective and informed, the apprehension must be reasonable and that the question is not whether a reasonable, objective and informed person might, on the correct facts, apprehend but it is whether such a person would, on the correct facts, reasonably apprehend. Furthermore, the reasonable apprehension is not that the Judge may not bring an impartial mind to bear on the adjudication of the case but the reasonable apprehension is that the Judge has not or will not bring an impartial mind to bear on the adjudication of the case. That is a mind open to persuasion by the evidence and the submissions of Counsel. The reasonableness of the apprehension must be assessed in the light of the oath of office taken by Judges to administer justice without fear, favour or prejudice. Furthermore, the onus to establish the test is upon the applicant.

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<sup>7</sup> SARFU para 48.

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36. In *SARFU*<sup>8</sup> the Court made it clear that an unfounded or unreasonable apprehension concerning a judicial officer is not a justifiable basis for an application for recusal and that the apprehension of the reasonable person must be assessed in the light of the true facts as they emerge at the hearing of the application. Courts are hesitant to make a finding of bias or to conclude that there is a reasonable apprehension of bias in the absence of convincing evidence to that effect.<sup>9</sup>
37. Both Mr M Sikhakhane SC and Mr PJ Pretorius SC were agreed that the test as set out above is the test for the determination of a reasonable apprehension of bias but they differed on the application of that test. No benefit will be derived from referring to other cases because I am satisfied that the application of the test to the facts of this case does not present any problem in deciding this application.
38. The first ground upon which the applicant relied in support of his application for my recusal was that he and I are friends and have been friends for many years. In this regard he said that, when the Chief Justice gave him my name as the Judge whom the Chief Justice had selected to chair this Commission, he was concerned

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<sup>8</sup> Para 45.

<sup>9</sup> See *SACCAWU & others v Irvin & Johnson Ltd (Seafoods Division Fish Processing)* 2000 (8) BCLR 886 (CC) at par 12 where the Constitutional Court said that "the presumption of judicial impartiality is not easily dislodged. It requires 'cogent' or 'convincing' evidence to be rebutted."



that, because of that friendship, I could be disqualified. He admits that he did not raise his concerns with the Chief Justice. He says that the reason why he did not raise his concerns about me with the Chief Justice was that he feared that, if he raised his concerns, he could be seen as seeking to influence the selection of the Judge who was going to chair the Commission when the Public Protector's remedial action had made it clear that the Judge to chair the Commission should be selected by the Chief Justice.

39. After becoming aware that this was one of the grounds relied upon by the applicant, I followed the precedent of the Constitutional Court in *SARFU* and read into the record a statement which set out the facts relating to my relationship with the applicant. This was on Monday 16 November 2020. Yesterday morning the applicant furnished the Commission with an affidavit responding to my statement. In my statement I stated that, although the applicant and I have known each other since the early 1990s and have a cordial relationship, we are not friends. The applicant maintains that our relationship was that of friends. What is important, however, is that the applicant does not dispute the various matters listed in paragraph 7 of the statement I read into the record except paragraph 7(e)<sup>10</sup>.

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<sup>10</sup> Paragraph 7 of my statement reads:

"7. Although Mr Zuma and I have a cordial relationship and have over the years interacted with each other pleasantly wherever we met, mostly in government functions, Mr Zuma's statement that we are friends is not accurate. In this regard I highlight the following:

M. A.

40. With regard to paragraph 7(e) the applicant points out that it is not accurate because I did meet with him for a briefing at his official residence after the Chief Justice had given him my name as the Judge he had selected to chair this Commission. The applicant is correct that such a meeting took place but he errs in so far as he suggests that such a meeting should have been mentioned in paragraph 7(e). Paragraph 7(e) appears under the heading: “Personal relationship between myself and Mr Zuma.” That topic excludes official meetings. The meeting I had with the applicant after the Chief Justice had given him my name was an official meeting. I was not paying him a personal visit. Indeed, I was

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- (a) Mr Zuma has never been to any of the houses in which I have lived with my family since the early 1990s and I have never invited him. He only met my wife at the opening of Parliament or other government function. He has also never been to any of the places in Gauteng in which I have lived over the past 23 or 24 years since my appointment as a Judge in 1997.
  - (b) Mr Zuma and I do not socialise, and, have never socialised, together. I accept that there are functions – especially government functions - which he attended and I attended and that on such occasions we would greet each other and have brief conversations. After I had been elevated to the Bench in 1997, in January 1998 my law firm held a gala dinner in Durban for my farewell from my law firm and many people were invited including His Majesty King Goodwill Zwelithini but Mr Zuma was not among those who were invited. I have never invited Mr Zuma to any family function including my birthdays since I met him in the early 1990s. He has also never invited me to any of his birthday parties since we got to know each other.
  - (c) Mr Zuma does not get told when there is a death in my family. As a result, he has never attended any of the family funerals we have had since I got to know him even though, from the early 1990s to-date, I have lost four siblings and my mother. I have never attended the funeral of any member of the Zuma family nor does Mr Zuma inform me when there has been any death in his family.
  - (d) To the best of my recollection since the 1990s I have never shared any private meals with Mr Zuma.
  - (e) I have never been to Mr Zuma’s Presidential Office when he was President nor did I go to his official residence.”

Another matter in my statement that the applicant does not dispute in his subsequent affidavit of 18 November 2020 is the following statement in paragraph 4:

“4. As far as I recall, I never had any one-on-one meeting with Mr Zuma throughout the period of nine (9) years when he was President.”

informed by the Chief Justice that the applicant had asked that whichever Judge the Chief Justice selected should come and see him. Furthermore, in paragraph 7(e) I had in mind the Pretoria official residence of the President, hence the reference to the Presidential Office in that paragraph.

41. In the light of the fact that the applicant does not dispute most of the facts set out in paragraph 7 of my statement, I am of the opinion that on the undisputed facts there was not the kind of relationship between myself and the applicant that would disqualify me from chairing this Commission nor is it a proper ground for me to recuse myself.
42. In any event I am of the opinion that, if the applicant was of the view that I should not chair this Commission when the Chief Justice gave him my name, he should have raised the matter with the Chief Justice. The view he expresses that he would have been seen to be interfering with the selection of the Judge to chair the Commission is not sound. If the Chief Justice had given him the name of a Judge about whom he (i.e. the applicant) had reports of corruption which he was planning to pass on to the Chief Justice, would he have kept quiet? I do not think so. After all the Chief Justice would not have been bound by the applicant's opinion. He would have applied his mind to the disclosure and either stood by the name of the Judge he had chosen or selected another Judge. In my view, there

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was no sound reason why the applicant only raised the issue of a personal relationship between myself and himself close to three years after my appointment to chair this Commission. The applicant cannot be allowed to raise this issue so late in the day.<sup>11</sup>

43. The applicant also contended that the manner in which the Commission called its witnesses at the beginning gave rise to a reasonable apprehension of bias because many of them appeared to be persons who had an axe to grind with him. In this regard he referred to some of the Ministers who testified before this Commission. There is no merit on this point. The Commission was free to use whatever witnesses were available as long as in the end the applicant was himself afforded a fair opportunity to come before the Commission and deal with whatever evidence such witnesses may have given against him.

44. The applicant also contended that, after he had come before the Commission and testified last year, the Commission ignored the matters that he raised during his evidence. The fact of the matter is that the applicant had not completed his evidence when he left the Commission in July 2019 and it was agreed that he

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<sup>11</sup> In *Bernert v ABSA Bank Ltd* 2011 (3) SA 92 (CC) at paras 69-77 the Constitutional Court held it not to be "in the interests of justice, at this late stage, to permit the applicant to raise a complaint of bias based on shareholding by Cachalia JA". In this present case Mr Zuma failed to raise the issue of apprehension of bias for close to three years. He did not raise the concern even in July 2019 when he appeared before the Commission and testified before me.



would come back to continue his evidence. Since then, it is now more than a year and the Commission has been trying to get the applicant to come back to the Commission to continue his evidence but the applicant has had to be compelled by way of a summons to appear before the Commission. Indeed, the Commission has served the applicant with two directives in terms of Regulation 10(6) of its Regulations compelling him to furnish the Commission with affidavits but the applicant has not complied with these directives. Indeed, the applicant has to date not furnished the Commission with affidavits he undertook in July last year he would provide to the Commission. In these circumstances it cannot lie in the applicant's mouth to say that the Commission has ignored the matters he raised in his evidence.

45. Counsel for the applicant contended that I made various comments when certain witnesses gave evidence which suggested that I thought that the applicant was guilty of state capture. I have read all the comments quoted in the founding affidavit. I do not propose to refer to any one of them. I am satisfied that the applicant's contention has no merit. As Mr Pretorius SC submitted, I am entitled and, sometimes, actually obliged, to ask witnesses questions and to seek clarification on their evidence because the Commission seeks to establish the truth on the matters that it is investigating.

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46. Even a Judge in a court of law is entitled to ask questions and seek clarifications in a trial. The main difference between the applicant's approach to the comments I make and my approach – indeed Mr Pretorius' approach - is that the applicant appears to expect me to be very passive when witnesses give evidence before me. I do not agree. I believe that, provided I keep an open mind and act fairly, there is no difficulty in me seeking clarification from witnesses and testing their evidence. What is important is to strike the right balance. I am of the view that that balance has been correctly struck in regard to most, if not all, the comments about which the applicant complains.<sup>12</sup>

47. In the end I conclude, having had regard to all the points raised by the applicant, including the points relating to press statements and media conferences the he has referred to in his affidavit, that the applicant has failed to meet the test for a reasonable apprehension of bias. Accordingly, I conclude that the application for my recusal falls to be dismissed and it is accordingly dismissed.

**ZONDO DCJ, Chairperson of the Commission**

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<sup>12</sup> See the following cases in the context of a Judge in a Court: *Take and Save Trading CC and others v Standard Bank of SA Ltd* 2004 (4) SA 1 (SCA) at paras 3-6; *Sager v Smith* 2001 JDR 0212 (SCA)





M. A.

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COMMISSION OF INQUIRY INTO STATE CAPTURE  
HELD AT  
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER  
158 CIVIC BOULEVARD, BRAAMFONTEIN

19 NOVEMBER 2020

DAY 309



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**CERTIFICATE OF VERACITY**

I, the undersigned, hereby certify that, *in as far as it is audible*, the foregoing is a **VERBATIM** transcription from the soundtrack of proceedings, as was ordered to be transcribed by Gauteng Transcribers and which had been recorded by the client

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**CITY OF JOHANNESBURG OLD COUNCIL CHAMBER**

**158 CIVIC BOULEVARD, BRAAMFONTEIN**

**DATE OF HEARING:**

19 NOVEMBER 2020

**TRANSCRIBERS:**

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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 M.A.

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has referred to in his affidavit, I conclude that the Applicant has failed to meet the test for a reasonable apprehension of bias.

**RULING**  
**(APPLICATION FOR RECUSAL)**

Accordingly, I conclude that the application for my recusal falls to be dismissed and it is accordingly dismissed.

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**CHAIRPERSON:** Yes, Mr Pretorius.

**ADV PRETORIUS SC:** Chair, during the course of the week we have had various discussions both in chambers and during the course of address before you that indicated that the Applicant and his legal team would react in one way or another and perhaps we should find out what their attitude is.

We, as the legal team, do have in possession and we  
20 have prepared an argument on the eventuality of the result that has occurred but perhaps that should wait and we should hear my learned friend.

**CHAIRPERSON:** Okay alright. Mr Sikhakhane.

**ADV SIKHAKHANE SC:** Chair, I am not entirely sure what Mr Pretorius is saying. He says he will argue after me. I am

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not entirely sure. I have noted the judgement.

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE SC:** I really do not know what he says I must say before he argues something. I am truly not – I am a bit baffled about what he says we must argue.

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE SC:** I really do not know what he wants me to do.

**CHAIRPERSON:** Yes. Well, I guess he should  
10 ...[intervenes]

**ADV SIKHAKHANE SC:** He wants to hear what I  
...[intervenes]

**CHAIRPERSON:** He should carry on with his plans.

**ADV SIKHAKHANE SC:** I think he must carry on with his plans.

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE SC:** And I will say if his plans do not – are not aligned with mine.

**CHAIRPERSON:** Ja.

20 **ADV SIKHAKHANE SC:** Thank you.

**CHAIRPERSON:** Okay alright.

**ADV PRETORIUS SC:** It seems that any attempt at [speaker not clear] is not well-accepted. Our position is, the summons still stands and the Applicant, Mr Zuma, must now answer questions. If that position is opposed, I will present

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argument to you on that basis.

**ADV SIKHAKHANE SC:** Thank you, Chair. I am clearer now about what it is we are debating.

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE SC:** Well, I have no position to put for us to debate.

**CHAIRPERSON:** H'm.

**ADV SIKHAKHANE SC:** One is that, before we excuse ourselves from the proceedings, I think I have a duty to tell  
10 the Chair why we will excuse ourselves so that it not cause a walk out or defiance but we will excuse ourselves right now.

**CHAIRPERSON:** H'm, h'm.

**ADV SIKHAKHANE SC:** The facts is this. Is that the instruction is to review your decision that you have just of when you finally give us a copy and we will take it from there.

**CHAIRPERSON:** H'm.

**ADV SIKHAKHANE SC:** The next Chair is that. You will realise – maybe I did not say this enough. Is that you have  
20 become a judge in the dispute that involves yourself, in that, in determining disputes that arise in matters that include you.

And Chair, I know you have quoted Arthur Chaskalson, the CJ but you may not have noted that the issues in Arthur Chaskalson and Louis Luyt were common cause and the

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issues here are not common cause.

And for that reason Chair we want to excuse ourselves from these proceedings so that we consider your ruling. And insofar as the issue of you becoming a judge in your own matter, which on its own is a ground that we have mentioned, that Mr Zuma mentioned.

I want to say that we have also been instructed to bring an application – not an application – to lodge a complaint about you in that regard to the Judicial Service Commission  
10 in respect of the issue about which you have made yourself a witness and a judge.

And therefore Chair, I have no other instruction today or anywhere in the future until we have considered the review except that we would like to be excused from these proceedings. Thank you.

**CHAIRPERSON:** Okay. Mr Pretorius.

**ADV PRETORIUS SC:** Chair, we have prepared argument in writing to place before you. The effect of that argument is that, notwithstanding an intention to review your decision, in  
20 short, the proceedings must continue.

And if, as my learned friend puts it, they are excusing themselves from the proceedings. They are, in fact, acting... Well, not they, the Applicant would be acting in defiance of the summons and unlawfully.

It is up to you Chair to decide whether or not the



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proceedings will continue or whether they will be adjourned or stayed, in effect, pending any application for review or any referral of any complaint Chair.

So the position is simply this. The summons stands. It is not, with respect to my learned friend, open to the Applicant simply to “excuse himself”.

The proper application of the law that demands that you make a decision about the continuance of proceedings. And in that regard, we have prepared argument.

10 But in the face of a unilateral decision, I am not sure that it is going to be productive to take up time, presenting that argument to you. So perhaps we should take a short adjournment and you can rule on the proceedings after the adjournment.

**CHAIRPERSON:** Well, let us take the tea adjournment and then we will resume after 15-minutes.

**ADV PRETORIUS SC:** Thank you, Chair.

**CHAIRPERSON:** We adjourn.

**INQUIRY ADJOURNS**

20 **INQUIRY RESUMES**

**CHAIRPERSON:** We took a tea adjournment which has ended up taking quite long. We return to the hearing in circumstances where Mr Zuma has left, I have been told. Mr Zuma had been issued with a summons to be here from Monday to tomorrow unless he was excused by me. On

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Tuesday his lawyers asked me to excuse him for yesterday because he wanted to attend a funeral. I excused him from attending. He has left today without asking me to be excused.

This is a serious matter but in terms of the plans of the Commission for this week he was going to be, if I dismissed his application that I should recuse myself, as I have done, he was going to be asked to take the witness stand and be questioned about various matters relating to  
10 matters that we are investigating as a Commission. It is a pity that he has elected to leave without asking for permission.

There is no point for the Commission to sit for the rest of the day because it has convened to deal with his evidence, there is no point in coming tomorrow because he is not coming back.

So we are going to adjourn and the Commission will reflect on the matters that it needs to reflect on but it is going to continue with its work. I think I am going to end  
20 there. I do not know if there is anything you want to say Mr Pretorius?

**ADV. PRETORIUS SC:** No, Chair.

**CHAIRPERSON:** Yes.

**ADV. PRETORIUS SC:** Your address is noted.

**CHAIRPERSON:** Yes. Okay so we are going to adjourn,

A handwritten signature in black ink, consisting of a large, stylized 'S' shape followed by the initials 'M.A.'.

19 NOVEMBER 2020 – DAY 309

there will be no hearing tomorrow but next week there are witnesses who will come and we will continue next week on Monday. We adjourn.

**INQUIRY ADJOURNS TO 23 NOVEMBER 2020**



m.A.

IM5A



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 Parktown  
 Johannesburg  
 2193  
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 Email:  
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**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
 CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

---

03 November 2020

Mabuza Attorneys  
 1<sup>st</sup> Floor  
 83 Central Street  
 Houghton  
 2193

Attention: Mr Eric Mabuza

Dear Sir

**re: Compliance with summons by Mr Jacob Zuma**

1. On the 9<sup>th</sup> October 2020 the Chairperson of the Commission authorised the issuing of a summons against your client, Mr Jacob Zuma, to compel him to appear before the Commission on 16 to 20 November 2020. To cater for such legitimate concern as your client may have with regard to Covid 19 in the light of his age, the Chairperson made it clear that appearance through a video link, if your client makes proper and timeous arrangements, will be deemed to be sufficient compliance with the summons.

1

M. A.

2. The sheriff served the summons on the 22<sup>nd</sup> October 2020. It is now two weeks before your client will be required to appear before the Commission in terms of that summons. I write to ask you to indicate by close of business on Thursday, 5 November 2020 whether your client will comply with the summons.
  
3. It is important and urgent that the Commission be informed whether your client will or will not comply with the summons so that, if your client indicates that he will not comply with the summons, the Commission may consider its options. Those options include approaching the Constitutional Court in terms of section 167 (6) (a) of the Constitution read with the Rules of that Court for an appropriate order aimed at ensuring your client's compliance with the summons or appearance before the Commission. The Commission may have to resort to approaching the Constitutional Court to ensure your client's appearance before it because of the importance of your client's evidence to the matters being investigated by the Commission. It is hoped that this will not be necessary.

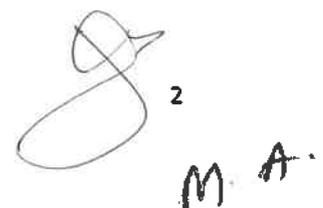
Yours sincerely



**Prof Itumeleng Mosala**

**Secretary of the Commission**

**Commission of Inquiry into state Capture**



2  
M. A.



Att: Prof Itumeleng Mosala  
 Secretary: Commission of Inquiry into State Capture  
 Hillside House, 3<sup>rd</sup> Floor  
 17 Empire Road  
**Parktown**  
 Johannesburg

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Email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Your Ref: Farrhan Khan  
 Our Ref: Mr ET Mabuza / Ms Z Longwe / Mr R Baloyi  
 Date: Thursday, November 05, 2020

Dear Sir,

### Compliance with summons by President JG Zuma

1. Your letter of 3 November has reference.
2. We are embarrassed by the contents of your letter and the suggestion that you have some legal basis to approach the Constitutional Court to enforce your summons against President Zuma in respect of his attendance on 16 to 20 November 2020. We will not tamper with your belief that the Constitutional Court has jurisdiction to enforce a summons. It may well be that the Commission is privy to information about which we are not aware.
3. President Zuma has not indicated to the Commission or to us that he plans to defy the summons.
4. You are free to take any step you deem appropriate.
5. Our client's rights are reserved.

Eric T Mabuza B.Proc (Unin) LLB (Wits) ◀ Senior Associates Rudolph N Baloyi LLB (UL) ◀ Zondiwe Longwe LLB (Wits) ◀ Thomas Sibuyi LLB (UNISA)

◀ Mzuphela GM Yeko B.Proc (UNITRA)

M.A.

Yours faithfully

A handwritten signature in black ink, appearing to be 'S. Mabuza', written in a cursive style.

**MABUZA ATTORNEYS**

Handwritten initials 'S.M.A.' in black ink, with a large, stylized 'S' and 'M' followed by 'A.'.

IM5B

COMMISSION OF INQUIRY INTO STATE CAPTURE  
HELD AT  
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER  
158 CIVIC BOULEVARD, BRAAMFONTEIN

16 NOVEMBER 2020

DAY 307



**Gauteng Transcribers**  
Recording & Transcriptions

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*S M A*

**CERTIFICATE OF VERACITY**

I, the undersigned, hereby certify that, *in as far as it is audible*, the foregoing is a **VERBATIM** transcription from the soundtrack of proceedings, as was ordered to be transcribed by Gauteng Transcribers and which had been recorded by the client

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**CITY OF JOHANNESBURG OLD COUNCIL CHAMBER**

**158 CIVIC BOULEVARD, BRAAMFONTEIN**

**DATE OF HEARING:**

16 NOVEMBER 2020

**TRANSCRIBERS:**

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



**Gauteng Transcribers**  
Recording & Transcriptions

  
M.A.

16 NOVEMBER 2020 – DAY 307

statement. You [00:19:03] out the relationship.

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** You contextualise it.

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** And of course we know that in recusal application there is something called a waiver. It means you give even raise it at the beginning.

**CHAIRPERSON:** Yes. Ja.

**ADV SIKHAKHANE:** And so although we are going to look  
10 at your statement and I am not going to cross-examine you  
about it.

Chair I think I should get a couple of things out of the way.

**CHAIRPERSON:** Yes.

**ADV SIKHAKHANE:** Because this matter has been talked about a lot of people have pontificated about what it is we doing. And I thought this opportunity I must use first to say contrary to public speculation we advised and brought Mr Zuma here to demonstrate to you that he was never  
20 going to defy you because he understands the nature of your job and respects the summons that you issued and he was never going to defy that even if we told him to defy you.

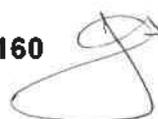
Secondly Chair since the letter of 28 September 2020 which indicated that we would this application so

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issue that well, if you do not give me your version I will just to – but, sir, without the version of such people, I appreciate the fact that it weakens the Commission. Without Mr Zuma giving a version here in an environment that he trusts, the reports may be great, may be good, but it may not assist in going forward and it may open itself up to difficulties that we do not need.

I have raised it with Mr Pretorius that, you know, if we were playing the Stalingrad, everyone thinks Stalingrad  
10 means a delay, Stalingrad was the shortest battle, it was just fought strategically, is this. If you blow us, today, you do not agree with us – as I have said, I have a mountain to climb – what happens? Do we get Mr Zuma here as a guarantee? No, no, if we are approached that way, we will just – even if we lose, we will review you, we will go as far as wherever and that is not helpful.

If you force me to bring him here without the climate being created for him to believe that he is not being charged. Well, I put him there, Chair, and he will exercise his right  
20 to say nothing and I think those two things as strategic as they may be for me as a lawyer to get my client out of this place I think the country deserves the climate that can interrogate the subject matter without judging the people we already dislike, and I think those – that is the pattern I am giving without judging you, it is a pattern that I am



M. A.

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must be created for you because Chair I don't care about the people who sit in this commission behind the scenes. When this Commission is reviewed Chair us who are close to you, who have known you rise as a brother you will be criticised, not them, not the agenda they are pushing behind the scenes, ethnic or racial, it will be you who will be criticised and they will run away and we will have to defend you, and the point I am making is this, I am asking you Chair to look at your comments but the second relief

10 we seek there I am asking you in your thinking about how do we remedy this situation I said to Mr Pretorius I am prepared to sit with him and look at how Mr Zuma can have an environment here where the citizens who deserve his version can hear it and I would like you Chair to creatively together with all of us look at that remedy and see even if you accept that some of your comments may not have been appropriate or may not have been sensitive I am asking you in that second relief to look at creating an environment not just for Mr Zuma maybe for others to come here and

20 feel they are not accused, and that is why I said to Mr Pretorius when lawyers sit and talk about remedy we do that because we want to assist the judge to come to some sort of conclusion that is just and equitable.

As I said earlier I can sit down now Chair and you blow me and I will review you and it goes nowhere, it will

A handwritten signature in black ink, appearing to be 'M. A.', written over a faint circular scribble.

16 NOVEMBER 2020 – DAY 307

be the end of Mr Zuma or I bring him here and tell him to sit there and say nothing and that is a stalemate I can do, but it is unconstructive and I want you to look at the second relief and see having considered the things we have said and Chair I would like lastly to look at the statement you made this morning and see whether it is important for me and my client to look at this version, and then we will tell you probably tomorrow or any other time.

Chair I thank you for giving me this time, it is a  
10 difficult task, probably no one has said to us the second in command in the judiciary, judge you are doing a good job.

**CHAIRPERSON:** Well I can tell you that in two and a half months time I will be finishing 24 years on the bench and this is the first time an application is brought for me to recuse myself, but it is brought by you, but you know there is nothing wrong with an application for recusal when people feel aggrieved, it is a remedy that is available and should be considered so – but I was just saying that in 24 years this has not happened, but there is always a first  
20 time.

**ADV SIKHAKHANE:** Chair in 20 years of practice I haven't been asked to ask someone I know, I come from the same village with, to recuse themselves, so I thank you for giving us the opportunity and those are our submissions and we are pleased to have discussions. There is an



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that he fears that you may have made up your mind on certain issues what happens?

It may be that the answer in circumstances such as these is this one and one would accept that it might not be the best answer. It may well be and you must just indicate what you – what your submissions are that in a situation such as this you are expected as the aggrieved witness to complain later in a review application because if you complain later in a review application maybe if you are  
10 successful the court can set aside findings that relate to you if nobody else has complained the other findings stand.

I am just thinking aloud and I would like us to look at it. I know you have thought about the issue.

**ADV SIKHAKHANE:** I have.

**CHAIRPERSON:** And that is why I – I want to benefit from

...

**ADV SIKHAKHANE:** Ja. Chair

**CHAIRPERSON:** Your submissions.

**ADV SIKHAKHANE:** Let me start with the last one that I  
20 may review later therefore there is that option. The reason I would not accept that option not me I am saying it would not be acceptable in a legal process like this is that you making your problem mine in the sense that because there is a conundrum my grounds to come before you must be regarded as incompetence simply to make things convenient for you.

Handwritten signature and initials, possibly 'J.M.A.', in black ink.

16 NOVEMBER 2020 – DAY 307

I do not think that would be the best way to look at it but it is an option available. But it does not help because it will not deal with the problem and I have no desire that this commission be collapsed because it is very important.

The other thing Chair what you are asking me now is truly what I have been trying to say to Judges to no avail. There is something wrong with how this thing was established. It was not thought through. It was politically motivated in the thinking and the challenges you and me  
10 face now are challenges caused by the fact that those who thought about this thought about sinking Mr Zuma and nothing else.

And I think if we get those out of the way one of the things to be done for a process like this like we would in a court if we are responsible is to say, maybe in some respects Chair I am correct in my grounds. And maybe in some respects I am not so correct. Could we collapse this commission simply because it is a draw between you and me? And maybe the – let me call it the third way.

20 Maybe the third way is to look at – because this is not a court you can craft things to save this as we – as we want is what can we do to ensure that Mr Zuma not accounts because it is wrong to say a commission is a place of accountability. Professors say this out there; they have never been inside a court.

A handwritten signature in black ink, appearing to be 'J.M.A.' with a stylized flourish above the 'J'.

## IM6A



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19 November 2020

#### Statement by JG Zuma Foundation on Zondo Commission

The JG Zuma Foundation expresses its disappointment that the Chairperson of the Zondo Commission missed the opportunity offered to him by President Zuma's counsel during oral submissions on 16 November 2020.

Equally disturbing is the fact that the Chairperson failed to realize that as soon as his unusual statement was contradicted, he could not be the arbiter of his own dispute.

We are also gravely concerned at the reports that when President Zuma's legal team went to see the Chairperson in chambers they found the Chairperson with Nguziwezi SC, whose role in the Chairperson's chambers was not explained. It is disturbing that the Chairperson allowed such irregularities to occur in the matter.

We stand by President Zuma and commend him for the firm stance of walking away from the Commission. It is indeed a comedy of errors, bounding from one error to the next.

We commend President Zuma for risking it all in order not to legitimize an irregular process disguised as a legitimate Commission.

We call on all supporters of President Zuma as the latest criminal proceedings being plotted by the Evidence Leaders, and the Chairperson tragically assisted by Nguziwezi SC, who also represents other parties appearing before the same Commission.

Breaking the cycle of intergenerational poverty

PO BOX 57 MORNINGSIDE 2010

www.jg-zuma-foundation.org.za

We know that President Zuma and his team took the brave stance because they were not prepared to be bullied and elected to terminate their participation regardless of the risk of contempt proceedings.

President Zuma assures us that he would rather face jail than allow himself to be bullied by an irregular, manipulated and unlawful process.

We hope that the Chairperson is aware that those pulling the strings behind the scenes do not have his interests at heart and will drop him as quickly as they picked him.

President Zuma's counsel repeatedly implored the Commission to be responsible but at ~~the end of the day~~ behind the scenes

*J. M. A.*

We commend President Zuma for making it all in order not to legitimise an irregular process disguised as a legitimate Commission

We call on all supporters of President Zuma as he faces criminal proceedings being plotted by the Evidence Leaders, and the Chairperson irregularly assisted by Ngwenkwe SC, who also represents other parties appearing before the same Commission.

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www.jacobgodieynewsa.com

We know that President Zuma and his team took this brave stance because they were not prepared to be bullied and elected to terminate their participation regardless of the risk of contempt proceedings

President Zuma assures us that he would rather face jail than allow himself to be bullied by an irregular, manipulated and unlawful process

We hope that the Chairperson is aware that those pulling the strings behind the scenes do not have his interests at heart and will drop him as quickly as they picked him

President Zuma's counsel repeatedly implored the Commission to be responsible but all these attempts were in vain as the forces behind the scenes were prepared to risk it all, including the integrity of the Chairperson, to achieve their nefarious goals

They can spin what happened all they like, their evil intentions were thwarted and prejudice blinded them

We are behind President Zuma all the way, no matter what they try to destroy him from. They will fail

Issued by

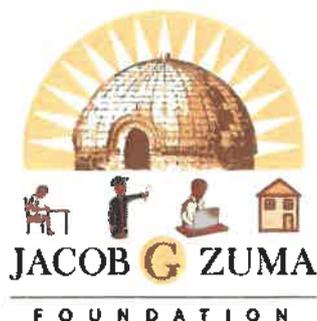
Jacob Godiey/Newsa Mhlanganyhwa Zuma Foundation

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M. A.

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23 September 2020

**STATEMENT****PRESIDENT JG ZUMA - STATE CAPTURE COMMISSION**

The Jacob Gedleyihlekisa Mhlanganyelwa Zuma Foundation here in referred to as (the Foundation) noted with dismay the utterances of the Chairperson of the State Capture Commission, Deputy Chief Justice R. Zondo at his extraordinary media conference designed to humiliate President Zuma and his attorneys.

His attacks on President Zuma and his legal representatives was absolutely unjustified and prejudicial. The Chairperson lacks this courage when faced with the open defiance by certain people, who have refused to appear before the commission. He has not called a press conference to respond to Minister Pravin Jammadas Gordhan when he failed even to file an affidavit to explain his non-appearance. This inconsistency and fear of the powerful is not expected from the man who occupies the second highest office in the judiciary.

The Foundation expresses its disappointment at the Chairperson's obsession with President Zuma. His media conference was ill-advised and utterly inappropriate for a person of his seniority in the judiciary. This comes after his unprecedented and prejudicial statements he made in his exchange with Mr Vincent Smith, wherein he made unwarranted conclusions about President Zuma in his absence, publicly insinuating that he was guilty or part of state capture.

During his media conference, the Chairperson omitted to mention that the very instructions regarding the date of 9 October 2020 and 16-20 November 2020 were only communicated to President Zuma's attorneys on Friday, 18 September 2020. Unprovoked, the Chairperson calls the press conference, insinuating that President Zuma or his lawyers have defied him when they have not even responded to the letter of 18 September 2020. It is regrettable, though not surprising, that he decides that the way to deal with the matter is through the media.

We respect the judiciary, but remind the Chairperson that he is not above the law himself and that he must be consistent in how he deals with witnesses and implicated persons. No witness, even the most arrogant and the most petulant, have inspired the Chairperson to call a media briefing merely to castigate them. No race, class or position in government should guarantee any witness the Chairperson's docility.

**Breaking the cycle of intergenerational poverty**

Registered Number: 2008/021836/08

Founder and Patron: Mr Jacob G. Zuma

We believe that the Chairperson could have waited for President Zuma's legal representatives to respond to his instructions that only came on Friday before his hastened media briefing on Monday. President Zuma has always indicated that, despite his misgivings about the legality of the Commission, he respects it and would cooperate. However, it appears that the Chairperson is determined to prejudice him, to humiliate him. It is clear for all to see that the Chairperson has made up his mind that he will treat President Zuma harshly in order to secure for himself a future career in the highest office in the judiciary.

It is equally regrettable that the Chairperson elected to omit certain facts in his address. He omits to mention that in his previous ruling, it is he who told the public that he would meet President Zuma's doctor. This, because he did not believe that President Zuma was indeed ill at the time. He has done no such thing. He also elects to omit that the application for a subpoena relates to President Zuma's previous dates which coincided with his treatment overseas.

The so-called application relating to the subpoena seems redundant and moot as it relates to dates that have passed. It is clear to us that the legal team of the Commission, in their curious wisdom, believes it can turn an old application, with old set of facts, into a new application for a future subpoena.

We note that the Chairperson was selective in the reason stated in the letter from President Zuma's attorneys for his non-appearance on 21-25 September 2020. He only mentions those he finds convenient to the message he seeks to communicate, namely, that President Zuma is not cooperating. Such conduct, in our respectful view, is far beneath his judicial office.

The Foundation calls upon the Chairperson to be consistent in dealing with witnesses, to be fair to President Zuma, even if he has already found him guilty. By calling the media conference, the Chairperson has jeopardized a great opportunity for cooperation. We believe that it serves no purpose to call an implicated person you have already judged while you refuse to call other witnesses simply because their testimony contradicts your brief or narrative you seek to confirm.

We call upon the Chief Justice to remind the Chairperson that he is not above the law and that he is accountable to the Constitution and not those who seek to peddle the theory of state capture that only serves to punish certain people while protecting those who are for now powerful.

This Commission is very important for the country and the Chairperson, through his monologues and attempts at pleasing certain sections of our society, is contaminating it and may end up compromising the entire process and the public funds that have been spent on him and the Commission.

We also call upon the Chairperson not to allow his personal issues with President Zuma to blind his judgment. We call upon the Chairperson not to play to the media gallery as such conduct belongs outside the judiciary.

It is inappropriate for the judiciary to use the media to tarnish the reputation of parties in legal proceedings just to seek favour with the media at the expense of the process and other witnesses.

END

ISSUED BY

JG ZUMA FOUNDATION

23 SEPTEMBER 2020

Breaking the cycle of intergenerational poverty

[www.jacobzumafoundation.org.za](http://www.jacobzumafoundation.org.za)

A handwritten signature in black ink, appearing to be 'J. M. A.', located at the bottom right of the page.

SEQ 01/2020-764

IM7



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

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

**TO: MR JACOB ZUMA**

**C/O: MR ERIC T MABUZA**  
 Mabuza Attorneys  
 1<sup>st</sup> Floor, 83 Central Street  
 Houghton, 2198

**EMAIL: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)**

1. By virtue of the powers vested in me, in my capacity as Chairperson of the above-mentioned Commission, by Regulation 10(6)<sup>1</sup> of the Regulations of the Judicial Commission of Inquiry Into Allegations of State Capture, Corruption and Fraud In the Public Sector Including Organs of State, I hereby direct you, **Mr Jacob Zuma**, to:

<sup>1</sup>Regulations 10(6) of the Regulations of the Commission reads: "For the purposes of conducting an investigation the Chairperson may direct any person to submit an affidavit or affirmed declaration or to appear before the Commission to give evidence or to produce any document in his or her possession or under his or her control which has a bearing on the matter being investigated, and may examine such person."

SEQ 01/2020-765

- 1.1. deliver on or before **18 September 2020** to the Secretary or Acting Secretary of the Commission at the address given above an affidavit or affirmed declaration in which:
- 1.1.1. you state whether you admit or deny the allegations made about or against you-
- (a) in the affidavit of Mr Andile Zola Tsotsi dated 13 February 2020 a copy of which is annexed hereto marked "A";
  - (b) in the statement of Mr Nicholas Hugh Linnell dated 21 November 2017 a copy of which is annexed hereto marked "B";
  - (c) in the affidavit of Mr Nicholas Hugh Linnell dated 9 March 2019 a copy of which is annexed hereto marked "C";
  - (d) in the affidavit of Mr Tshediso John Matona dated 17 March 2020 a copy of which is annexed hereto marked "D".
- 1.1.2. you state, if you deny or dispute any allegation or statement made about, or, against, you in the said affidavits or statements or affirmed declarations, the grounds on which you base your denial and give your full version in regard to the allegation(s) or statement(s) or issue(s) or matters or incidents covered therein insofar as they refer or relate to you.
2. If you would like assistance from the Commission in order to prepare the affidavit or affirmed declaration, you must, within five days (excluding weekends and public

  
M-A.

SEQ 01/2020-766

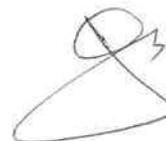
holidays) of receipt of this directive, contact, or, communicate with the Secretary or Acting Secretary of the Commission and indicate that you would like such assistance in which case the Commission will provide someone to assist you with the preparation of the affidavit or affirmed declaration. In such a case you will not pay anything for such assistance. Should you have difficulty in reaching the Secretary or Acting Secretary or should the Secretary or Acting Secretary not return your call or respond to your letter or emails, you may contact Ms Farrhah Khan at [FarrhahK@commissionsc.org.za](mailto:FarrhahK@commissionsc.org.za) and **060-770 1518**.

3. If, in order to prepare the affidavit, or affirmed declaration, you do not need any assistance from the Commission, you must, with or without the assistance of a lawyer of your own choice, prepare the affidavit or affirmed declaration and have it delivered to the Secretary or Acting Secretary of the Commission on or before the date given above for the delivery of the affidavit. If you make use of a lawyer of your own choice to assist you to prepare such affidavit or affirmed declaration, the Commission will not be responsible for the payment of your lawyer's fees or costs.
4. This directive is issued for the purpose of pursuing the investigation of the Commission.
5. Your attention is drawn to Regulations 8(2), 11(3)(a) and (b) and 12(2)(c) and (d) of the Regulations of the Commission, as amended:

Regulation 8(2) reads:

"8 (1) ...

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



M. A.

SEQ 01/2020-767

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

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

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

- "12 (1) ...  
 (2) Any person who  
 (a) ...  
 (b) ...  
 (c) wilfully hinders, resists or obstructs the Chairperson or any officer in the exercise of any power contemplated in regulation 10(1) or (2);  
 (d) refuses or fails, without sufficient cause, to submit, within a period fixed by the Chairperson or at all, an affidavit or affirmed declaration pursuant to a directive issued by the Chairperson under regulation 10(6); or  
 (e) ...  
 is guilty of an offence and liable on conviction -  
 (i) in the case of an offence referred to in paragraph (a), (c), (d) or (e), to a fine, or to imprisonment for a period not exceeding 12 months; or  
 (ii) in the case of an offence referred to in paragraph (b), to a fine, or to imprisonment for a period not exceeding six months."

DATED IN JOHANNESBURG ON THIS 27<sup>th</sup> DAY OF August 2020.



JUSTICE R. M. ZONDO  
 DEPUTY CHIEF JUSTICE OF THE REPUBLIC OF SOUTH AFRICA

  
 M. A.

SEQ 01/2020-776

COPY IM8



2<sup>nd</sup> Floor, Hillside House  
17 Empire Road  
Parktown  
Johannesburg  
2193  
Tel: (010) 214-0651  
Email:  
inquiries@sastatecapture.org.za  
Website:  
[www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

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

**TO :** FORMER PRESIDENT, MR JACOB ZUMA  
**C/O :** MABUZA ATTORNEYS, C/O MR ERIC MABUZA  
**ADDRESS :** 1ST FLOOR  
83 CENTRAL STREET  
HOUGHTON  
JOHANNESBURG  
**TEL :** (082) 561 1067  
**EMAIL :** eric@mabuzas.co.za;  
lindiwe@mabuzas.co.za

NAME: THOMAS  
SURNAME: SIBUYI  
DATE: 11/09/2020  
TIME: 16:20  
SIGNATURE: [Handwritten Signature]

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

<sup>1</sup>Regulations 10(6) of the Regulations of the Commission reads: "For the purposes of conducting an investigation the Chairperson may direct any person to submit an affidavit or affirmed declaration or to appear before the Commission to give evidence or to produce any document in his or her possession or under his or her control which has a bearing on the matter being investigated, and may examine such person."

[Handwritten Signature] M.A.

SEQ 01/2020-777

the Public Sector Including Organs of State, I hereby direct you, Mr Jacob Zuma, to deliver to the Secretary or Acting Secretary of the Commission on or before **28 SEPTEMBER 2020** at the address given above an affidavit or affirmed declaration in which:

- 1.1. you state whether you admit or deny the allegations made about, or, against you in the affidavit of Mr Popo Molefe dated 17 February 2020 which was submitted to the Commission for the purpose of its investigations and the relevant parts of which are attached to this directive marked "A"; and
- 1.2. you state, if you deny or dispute any allegation or statement made about, or, against you in Mr Molefe's affidavit, the grounds on which you base your denial and give your full version in regard to the allegations or statements or issues or matters or incidents covered in that affidavit which refer, or, relate to you.
2. If you would like assistance from the Commission in order to prepare the affidavit or affirmed declaration, you must, within three business days ( excluding weekends and public holidays ) of receipt of this directive, contact, or, communicate with, the Secretary or Acting Secretary of the Commission and indicate that you would like such assistance. In that event the Commission will provide someone to assist you with the preparation of the affidavit or affirmed declaration and you will not pay anything for such assistance.). Should you have difficulty in reaching the Secretary or acting Secretary or should the Secretary or acting Secretary not return your call or respond to your letter or your emails, you may contact Ms Farhah Khan at 060 787 8073 or at [farhahk@commissionse.org.za](mailto:farhahk@commissionse.org.za).



SEQ 01/2020-778

3. If, in order to prepare the affidavit, or affirmed declaration, you do not need any assistance from the Commission, you must, with or without the assistance of a lawyer of your own choice, prepare the affidavit or affirmed declaration and have it delivered to the Secretary or Acting Secretary of the Commission on or before the date given above for the delivery of the affidavit. If you make use of a lawyer of your own choice to assist you to prepare such affidavit or affirmed declaration, the Commission will not be responsible for the payment of your lawyer's fees or costs.
4. This directive is issued for the purpose of pursuing the investigation of the Commission.
5. Your attention is drawn to Regulations 8(2), 11(3)(a) and (b) and 12(2)(c) and (d) of the Regulations of the Commission, as amended.

Regulation 8(2) reads:

"8 (1) ...

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

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

"11 (1) ...

(2) ...

A handwritten signature in black ink, appearing to be 'M. A.', is located at the bottom right of the page.

SEQ 01/2020-779

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

Regulation 12(2)(d) and (e) reads:

“12 (1) . . .

(2) Any person who

(a) . . .

(b) . . .

(c) wilfully hinders , resist or obstructs the Chairperson or any officer in the exercise of any power contemplated in regulation 10(1) or (2) and

(d) refuses or fails, without sufficient cause, to submit, within a period fixed by the Chairperson or at all, an affidavit or affirmed declaration

 4  
M-A

SEQ 01/2020-780

pursuant to a directive issued by the Chairperson under Regulation 10(6).

is guilty of an offence and liable on conviction-

- (i) in the case of an offence referred to in paragraph (a), (c), (d) or (e) to a fine, or to imprisonment for a period not exceeding twelve months; and
- (ii) in the case of an offence referred to in paragraph (b) to a fine, or to imprisonment for a fixed period not exceeding six months."

DATED AT JOHANNESBURG ON THIS 8<sup>th</sup> DAY OF SEPTEMBER 2020.



JUSTICE RMM ZONDO

DEPUTY CHIEF JUSTICE OF THE REPUBLIC OF SOUTH AFRICA

and

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



M. A.

**IM9A**

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

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

---

**SUMMONS TO:  
 APPEAR AS A WITNESS**

In terms of section 3(2) of the Commissions Act of 1947, read with:

- Proclamation 3 published in Government Gazette No. 41403 on 25 January 2018
- Government Notice No. 105 published in Government Gazette No. 41436 on 9 February 2018 (as amended)
- Rules of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State published in Government Gazette No. 41774 on 16 July 2018

Tracking reference:	<b>SPS17(g)/1181/PJP</b>
---------------------	--------------------------

*M-A.*

To the sheriff or his/her deputy of Nkandla HL

**INFORM:**

MR. JACOB GEDLEYIHLEKISA ZUMA

**OF**

KWADAKWADUNUSE HOMESTEAD,

KWANXAMALALA, NKANDLA,

KING CHETSWAYO DISTRICT,

KWAZULU-NATAL

**AND**

8 EPPING ROAD, FOREST TOWN,

PARKTOWN,

JOHANNESBURG (ERF 889 PARKTOWN)

**that he is hereby summoned to:**

appear before the Commission personally at the Civic Centre, 158 Civic Boulevard, Braamfontein, Johannesburg from **18 January 2021 to 22 January 2021 (both dates inclusive)** at 10h00am on each such day for the purpose of giving evidence before the Commission and being questioned about any matter being investigated by the Commission, and in particular matters arising from the affidavits or statements listed in Annexure 'A' hereto and any other affidavits or statements that the Commission may serve on him or his attorneys not later than 15 December 2020 and that, should Mr Zuma make appropriate arrangements with the Commission prior to the dates referred to above to give evidence via video link, and he subsequently gives evidence on those days via video link, that will be deemed to be sufficient compliance with this summons.

**Your failure to comply with the above without sufficient cause constitutes an offence under section 6(1) of the Commissions Act 8 of 1947.**

**DATED** at Parktown on this 26 day of NOVEMBER 2020.



Prof. Itumeleng Mosala

**SECRETARY:**

**Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State**



**Annexure 'A'**

1.	Themba Mveli James Maseko	:	22 June 2017; 24 August 2017; 04 September 2019
2.	Mabel Patronella Mentor	:	25 July 2018
3.	Nhlanhla Musa Nene	:	01 October 2018
4.	Pravin Gordhan	:	11 October 2018
5.	Barbara Hogan	:	30 July 2018; 08 October 2018
6.	Ngoako Abel Ramatlhodi	:	07 November 2018
7.	Mahlodi Sam Muofhe	:	16 November 2018
8.	Fikile Mbalula	:	18 March 2019
9.	Angelo Agrizzi	:	15 January 2019; 26 March 2019
10.	Mxolisi Sandile Oliver Nxasana	:	11 June 2019
11.	Brent Adrian Simons	:	09 August 2019
12.	Abegnigo Hlungwani	:	22 August 2019
13.	Meliswe Mildred Oliphant	:	07 October 2019
14.	Makaringe Richard Baloyi	:	11 October 2019
15.	Yasmin Duarte	:	07 October 2019; 07 October 2019
16.	Samson Gwede Mantashe	:	07 October 2019; 07 October 2019
17.	Zwelini Lawrence Mkhize	:	08 October 2019
18.	Rajesh Sundaram	:	05 April 2019; 29 April 2019
19.	Miriam Phumla Williams	:	16 August 2018; 22 February 2019
20.	Siphiwe Nyanda	:	02 November 2018; 11 December 2019
21.	Trevor Andrew Manuel	:	11 October 2018; 14 February 2019
22.	Johan Wessel Booyesen	:	02 April 2019; 09 April 2019; 15 April 2019
23.	Nonkululeko Sindane	:	16 May 2019
24.	Kobus Demeyer Roelofse	:	27 August 2019
25.	Lizo Njenje	:	01 August 2019; 20 August 2019
26.	Rieaz Shaik	:	21 November 2019
27.	Ronald Shingange	:	12 December 2019
28.	Mr Y	:	28 January 2020
29.	Abdurrazack "Zackie" Achmat	:	13 February 2020
30.	Popo Simon Molefe	:	17 February 2020

The said affidavits or statements have been provided to your present legal representatives on 24 April 2020 and 30 April 2020.

Your former legal representatives were provided with all affidavits or statements until the date on which your present legal representatives confirmed their mandate to represent you on 21 April 2020.

A handwritten signature in black ink, appearing to be "S.M. S.", written in a cursive style.

**IM9B**

2<sup>nd</sup> floor, Hillside House  
17 Empire Road,  
Parktown  
Johannesburg  
2193  
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Tel (Tollfree): 0800 222 097  
Email: [inquiries@sastatecapture.org.za](mailto:inquiries@sastatecapture.org.za)  
Web: [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

---

**SUMMONS TO:  
APPEAR AS A WITNESS**

In terms of section 3(2) of the Commissions Act of 1947, read with:

- Proclamation 3 published in Government Gazette No. 41403 on 25 January 2018
- Government Notice No. 105 published in Government Gazette No. 41436 on 9 February 2018 (as amended)
- Rules of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State published in Government Gazette No. 41774 on 16 July 2018

Tracking reference:	<b>SPS17(g)/1285/PJP</b>
---------------------	--------------------------

A handwritten signature in black ink, appearing to be 'M.A.' with a large, stylized initial 'M'.

To the sheriff or his/her deputy of Nkandla HL and Johannesburg North HL

**INFORM:**

MR. JACOB GEDLEYIHLEKISA ZUMA

**OF**

KWADAKWADUNUSE HOMESTEAD,

KWANXAMALALA, NKANDLA,

KING CHETSWAYO DISTRICT,

KWAZULU-NATAL

**AND**

8 EPPING ROAD, FOREST TOWN,

PARKTOWN,

JOHANNESBURG (ERF 889 PARKTOWN)

**that he is hereby summoned to:**

appear before the Commission personally at the Civic Centre, 158 Civic Boulevard, Braamfontein, Johannesburg from **15 February 2021 to 19 February 2021 (both dates inclusive)** at 10h00am on each such day for the purpose of giving evidence before the Commission and being questioned about any matter being investigated by the Commission, and in particular matters arising from the affidavits or statements listed in Annexure 'A' hereto and any other affidavits or statements that the Commission may serve on him or his attorneys not later than 15 December 2020 and that, should Mr Zuma make appropriate arrangements with the Commission prior to the dates referred to above to give evidence via video link, and he subsequently gives evidence on those days via video link, that will be deemed to be sufficient compliance with this summons.

**Your failure to comply with the above without sufficient cause constitutes an offence under section 6(1) of the Commissions Act 8 of 1947.**

**DATED at Parktown on this 30<sup>th</sup> day of NOVEMBER 2020.**



**Prof. Itumeleng Mosala**



**SECRETARY:****Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State****Annexure 'A'**

1. Themba Mveli James Maseko : 22 June 2017; 24 August 2017; 04 September 2019
2. Mabel Patronella Mentor : 25 July 2018
3. Nhlanhla Musa Nene : 01 October 2018
4. Pravin Gordhan : 11 October 2018
5. Barbara Hogan : 30 July 2018; 08 October 2018
6. Ngoako Abel Ramatlhodi : 07 November 2018
7. Mahlodi Sam Muofhe : 16 November 2018
8. Fikile Mbalula : 18 March 2019
9. Angelo Agrizzi : 15 January 2019; 26 March 2019
10. Mxolisi Sandile Oliver Nxasana : 11 June 2019
11. Brent Adrian Simons : 09 August 2019
12. Abegnigo Hlungwani : 22 August 2019
13. Meliswe Mildred Oliphant : 07 October 2019
14. Makaringe Richard Baloyi : 11 October 2019
15. Yasmin Duarte : 07 October 2019; 07 October 2019
16. Samson Gwede Mantashe : 07 October 2019; 07 October 2019
17. Zwelini Lawrence Mkhize : 08 October 2019
18. Rajesh Sundaram : 05 April 2019; 29 April 2019
19. Miriam Phumla Williams : 16 August 2018; 22 February 2019
20. Siphwe Nyanda : 02 November 2018; 11 December 2019
21. Trevor Andrew Manuel : 11 October 2018; 14 February 2019
22. Johan Wessel Booyesen : 02 April 2019; 09 April 2019; 15 April 2019
23. Nonkululeko Sindane : 16 May 2019
24. Kobus Demeyer Roelofse : 27 August 2019
25. Lizo Njenje : 01 August 2019; 20 August 2019
26. Rieaz Shaik : 21 November 2019
27. Ronald Shingange : 12 December 2019
28. Mr Y : 28 January 2020



29. Abdurrazack "Zackie" Achmat : 13 February 2020
30. Popo Simon Molefe : 17 February 2020

The said affidavits or statements have been provided to your present legal representatives on 24 April 2020 and 30 April 2020.

Your former legal representatives were provided with all affidavits or statements until the date on which your present legal representatives confirmed their mandate to represent you on 21 April 2020.

A handwritten signature in black ink, consisting of a stylized 'S' followed by 'M.A.' with a period.

**IM9C**

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

In the matter between:

STATE CAPTURE

Case No – Saak No

Applicant

and:

MR JACOB GEDLEYIHLEKISA ZUMA

Respondent

Return in accordance with the provisions of Rule 54(6)(b) of the Uniform Rules of Court, as amended

On this 27th day of NOVEMBER 2020 at 13:47 I served the SUMMONS TO: APPEAR AS A WITNESS upon MR JACOB GEDLEYIHLEKISA ZUMA at KWADARWADUNUSE HOMESTEAD, KWANXAMALALA, NKANDLA by handing a copy thereof to Noma Ngcobo, Female, Secretary, a person apparently older than 16 years of age and employed at the respondent given address of employment. I further explained the nature and exigency of the process to the said person. Rule 54(6)(b)

Appearance Date: 18 JANUARY 2021.

Sheriff Fees Baljugelede	Date Datum	Tax Invoice Number Belastingfaktuur No.					
	30.11.2020	I 11382					
			Description	Qty	Vat	Amount	S NGENA Deputy Sheriff
			Return & Copy	1	4.20	28.50	 <b>S. Chetty</b> Sheriff – Balju Melmoth, Eshowe, Mtunzini & Nkandla P O Box 666 Melmoth 3835 Tel: 035 450 0001 Fax: 035 450 0002 sheriffmelmoth@gmail.com Bank: Standard Bank Name: Sheriff Melmoth Business Account BRCode: 57729 AcctNo: 031013678
			Registration	1	1.65	11.00	
			Service Fee	1	10.65	71.00	
			Travelling	200	180.00	1200.00	
			Send/rec Email	1	2.85	19.00	
			Postage	1	3.75	25.00	
			Urgency Fee	1	105.00	700.00	
			VAT / BTW			308.18	
VAT Reg No. BTW Reg Nr.	4310289923	You may require this account to be taxed and vouched before payment. U kan vereis dat hierdie rekening getakseer en geslaaf word voor betaling		Total Totaal	2362.68		
COMMISSION OF ENQUIRY 2ND FLOOR, HILLSIDE HOUSE 17 EMPIRE ROAD, PARKTOWN, JOHANNESBURG 2193			Account No. ♦ Rekening Nr. Your Reference ♦ U Verwysing My Reference ♦ My Verwysing Ret: 111995/POPS/1	1013 VatReg SPS17(g)/1181/PJP			
			Registrar: JOHANNESBURG				

 M.A.

The Judicial Commission of Inquiry into allegations of State Capture, Corruption and fraud in the Johannesburg

In the matter between: Case No - Saak No NO CASE NO  
 THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE CORRUPTION AND FRAUD Plaintiff  
 and: Defendant  
 MR JACOB GELDLEYIHLEKISA ZUMA

Return in accordance with the provisions of the Supreme Court Act 10 of 2013, as amended

RETURN OF SERVICE - SUMMONS - RETURN IN ACCORDANCE WITH THE PROVISIONS OF RULE 54 (6) OF THE UNIFORM RULES OF COURT, AS AMENDED

On this 26th day of November 2020 at 14:50 I served this SUMMONS upon MRS ZNAELE MAHLABA, HOUSEKEEPER, ostensibly a responsible person and not less than 16 years of age, of and in control of and at the place of residence of MR JACOB GELDLEYIHLEKISA ZUMA at 8 EPPING RD, FOREST TOWN, PARKTOWN, JHB, the last mentioned being temporarily absent and by handing to the first mentioned a copy thereof after exhibiting the original and explaining the nature and exigency of the said process. RULE 54 (6)

Note: The original return together with the original abovementioned process is dispatched to the mandator.

Sheriff Fees Baljugeelde	Date Datum	30.11.2020	Tax Invoice Number Belastingfaktuur Nr.	I 57270	
<div style="position: relative; height: 100px;"> <span style="font-size: 2em; opacity: 0.5; position: absolute; top: 50%; left: 50%; transform: translate(-50%, -50%);">Tax Invoice</span> <span style="font-size: 2em; opacity: 0.5; position: absolute; bottom: 50%; left: 50%; transform: translate(-50%, -50%);">Belastingfaktuur</span> </div>					
			Description..... Qty	Vat	Amount
			SERVICE	1	10.58 70.50
			Small Correspondence	1	2.85 29.00
			TRAVELLING	1	13.50 90.00
			Registration	1	1.65 11.00
			RETURN	1	5.63 37.50
			Urgency Fee	1	67.50 450.00
			COLLECTION	1	1.20 8.00
			VAT / BTW 15%		102.90
			<b>Total</b>		<b>788.90</b>
VAT Reg No. BTW Reg Nr.	4250141902		Excludes errors and omissions. Further costs may be charged. You may require this account to be taxed and vouched. Foule en wagtjings uitgesluit. Verdere kostes mag ebehel word. U kan vereis dat hierdie rekening getakskeer en oestaaf word.		
COMMISSION OF INQUIRY COLLECTION			Account No. ♦ Rekening Nr. Your Reference ♦ U Verwysing My Reference ♦ My Verwysing Ret: 158090/Christine/2		4226 Vat.Reg NO REF 
			Registrar: Johannesburg		

M Schoenfeldt  
 Deputy Sheriff  
**TA Kruger**  
 Sheriff - Balju  
 Johannesburg  
 North - Noord  
 Tel 011 334 4397/8/9  
 Fax 011 334 4320  
 Cell 082 442 1952  
 P O Box 9025  
 Johannesburg  
 2000  
[info@sheriffnorth.co.za](mailto:info@sheriffnorth.co.za)  
 Payments - Betalings  
 Bank: Absa Bank  
 Code: 632005  
 Name: Sheriff Johannesburg  
 North  
 AccNo: 0660 140 867

Form Design © Sheriff Information Gateway (Pty) Ltd

M.A.

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

In the matter between:

STATE CAPTURE

Case No - Saak No

Applicant

and:

MR JACOB GEDLEYIHLEKISA ZUMA

Respondent

Return in accordance with the provisions of Rule 54(6)(b) of the Uniform Rules of Court, as amended

On this 01 day of DECEMBER 2020 at 11:40 I served the SUMMONS TO: APPEAR AS A WITNESS upon MR JACOB GEDLEYIHLEKISA ZUMA at KWADAKWADUNUSE HOMESTEAD, KWANKAMALALA, NKANDLA by handing a copy thereof to SERGEANT NGCOBO, MALE, POLICEMAN, a person apparently older than 16 years of age and EMPLOYED at the RESPONDENT given address OF RESIDENCE. I further explained the nature and exigency of the process to the said person. RULE 54(6)(b).

Appearance Date: 15 FEBRUARY 2021 - 19 FEBRUARY 2021

Sheriff Fees Baljogeld	Date Datum	01.12.2020	Tax Invoice Number Belastingfaktuur Nr.	I 11408	
			Description.....	Qty	Vat Amount
			Registration	1	1.65 11.00
			Return & Copy	1	4.28 28.50
			Service Fee	1	10.65 71.00
			Travelling	200	180.00 1200.00
			Send/rec Email	1	2.85 19.00
			Postage	1	3.75 25.00
			Urgency Fee	1	105.00 700.00
			VAT / BTW		308.18
VAT Reg No. BTW Reg Nr.	4310289923	You may require this account to be taxed and vouched before payment. U kan versoek dat hierdie rekening getakeer en gestaaf word voor betaling		Total Totaal	2362.68
COMMISSION OF ENQUIRY 2ND FLOOR, HILLSIDE HOUSE 17 EMPIRE ROAD, PARKTOWN, JOHANNESBURG 2193			Account No. ♦ Rekening Nr. Your Reference ♦ U Verwysing My Reference ♦ My Verwysing Ret: 112006/POPS/I	1013 VatReg SPS17(g)/1285/PJP	
			Registrar: JOHANNESBURG	 S. Chetty Sheriff - Balju Melmoth, Eshowe, Mtunzini & Nkandla P O Box 666 Melmoth 3835 Tel: 035 450 0001 Fax: 035 450 0002 sheriffmelmoth@gmail.com Payments Bank: Standard Bank Name: Sheriff Melmoth Business Account BrCode: 57729 AccNo: 031013678	

*J* *M.A.*

**Shannon S. Van Vuuren**

**From:** johannesburgnorth@sheriffnet.co.za  
**Sent:** Wednesday, 02 December 2020 12:12  
**To:** Shannon S. Van Vuuren; Lerato L. Radebe; lerator@commissioinsc.org.za  
**Subject:** Return: 158370 - NO REF - THE JUDICIAL COMMISSION OF INQUIRY INFO ALLEGAIONS OF STATE CAPTURE CORRUPTION AND FRAUD - MR JACOB GELDLEYIHLEKISA ZUMA

**The Judicial Commission of Inquiry into allegations of State Capture, Corruption and fraud in the public sector including organs of the state  
Held at Johannesburg**

In the Matter between:	Case Number	NO CASE NO
THE JUDICIAL COMMISSION OF INQUIRY INFO ALLEGAIONS OF STATE CAPTURE CORRUPTION AND FRAUD	Plaintiff	
and		
MR JACOB GELDLEYIHLEKISA ZUMA	Defendant	
and		

Return in accordance with the provisions of the Supreme Court Act 10 of 2013, as amended

**RETURN OF SERVICE - SUMMONS - RETURN IN ACCORDANCE WITH THE PROVISIONS OF RULE 54(6) OF THE UNIFORM RULES OF COURT, AS AMENDED**

On this 30th day of November 2020 at 14:45 I served this SUMMONS upon MRS ZANELE MAHLABA, THE HOUSEKEEPER, ostensibly a responsible person and not less than 16 years of age, of and in control of and at the place of residence of MR JACOB GELDLEYIHLEKISA ZUMA at 8 EPPING RD, FOREST TOWN, PARKTOWN, JHB, the lastmentioned being temporarily absent and by handing to the firstmentioned a copy thereof after exhibiting the original and explaining the nature and exigency of the said process. RULE 54(6)

Appearance Date: 15 FEBRUARY 2021.

Note: The original return together with the original abovementioned process is dispatched to the mandator.

M Schoenfeldt - Deputy Sheriff

Sheriff Costs - Account: 4226 - COMMISSION OF INQUIRY			
Description	Qty	VAT	Total
Email correspondence	1	2.85	19.00
Service	1	10.58	70.50
Travelling	1	13.50	90.00
Registration	1	1.65	11.00
Return	1	5.63	37.50
Urgency fee	1	67.50	450.00
Collection	1	1.20	8.00
Vat / btw 15%			102.90
Copy Tax Invoice 57558 - Total			788.90
My VAT No: 4250141902			

Sheriff JHB North

T A Kruger

P O Box 9025

Johannesburg 2000

Tel 011 334 4397/8/9

Fax: 011 334 4320

Payments:

Absa Bank Code 632005

AccName: Sheriff JHB North

AccNo: 0660 140 867

kotie@sheriffjhbnorth.co.za

Draft return in electronic format, issued without prejudice of rights and with reservation. The above return is rendered for notification only, not for judicial purposes, thus unverified and subject to editing. Errors and omissions excluded. The above information may be legally privileged. If you have received it in error kindly inform sender. Please refrain from any disclosure, copying, distribution or taking any action in reliance thereon.

 M. A.

**IM10**

**COMMISSION OF INQUIRY INTO STATE CAPTURE**  
**HELD AT**  
**CITY OF JOHANNESBURG OLD COUNCIL CHAMBER**  
**158 CIVIC BOULEVARD, BRAAMFONTEIN**

**23 NOVEMBER 2020**

**DAY 310**



**Gauteng Transcribers**  
Recording & Transcriptions

22 Woodlands Drive  
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*S M.A.*

**CERTIFICATE OF VERACITY**

I, the undersigned, hereby certify that, *in as far as it is audible*, the foregoing is a **VERBATIM** transcription from the soundtrack of proceedings, as was ordered to be transcribed by Gauteng Transcribers and which had been recorded by the client

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**CITY OF JOHANNESBURG OLD COUNCIL CHAMBER**

**158 CIVIC BOULEVARD, BRAAMFONTEIN**

**DATE OF HEARING:**

23 NOVEMBER 2020

**TRANSCRIBERS:**

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



**Gauteng Transcribers**  
Recording & Transcriptions

M.A.

23 NOVEMBER 2020 – DAY 310

**PROCEEDINGS RESUME ON 23 NOVEMBER 2020**

**CHAIRPERSON:** I have an announcement to make in connection with the events of last Thursday, the 19<sup>th</sup> of November, 2020 in this Commission, before we start.

Last week was set aside for Mr Jacob Zuma to take the witness stand and face questions from the Commission's Legal Team on various matters that are being investigated by the Commission on which he has been implicated by a number of witnesses.

10 On or about the 22<sup>nd</sup> of October 2020 a summons that had been issued and signed by the Secretary of the Commission, as required by the Commissions Act of 1947 was served at Mr Zuma's residence at Nkandla compelling him to appear before the Commission on 15 to 20 November 2020, both dates inclusive, in order to give evidence and be questioned. The summons made it clear that the purpose of summoning Mr Zuma was for him to give evidence on various matters being investigated by the Commission and that he be questioned on those matters.

20 Mr Zuma appeared before the Commission on Monday 16 November 2020, when I heard argument on his application for my recusal. On Tuesday Mr Zuma, through his Counsel, requested me to grant him permission not to be at the Commission on Wednesday the 18<sup>th</sup> November 2020 as he wished to attend a family funeral. I granted



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permission but required that he should be back at the hearing on Thursday the 19<sup>th</sup> of November 2020.

On Thursday morning Mr Zuma appeared before the Commission. I delivered my ruling on his application for my recusal and dismissed his application after concluding that it had no merit whatsoever. Counsel for Mr Zuma informed the Commission that they would be challenging the ruling on review and that a complaint would be lodged against me with the Judicial Service Commission.

10           At that stage Mr Zuma's counsel also informed the Commission that they, including Mr Zuma, were going to excuse themselves from the Commission. Mr Pretorius, the Head of the Commission's Legal Team, indicated that Mr Zuma was not entitled to excuse himself unilaterally, as the summons that had been issued and served on him was still valid and binding, and that he required my permission to leave.

I adjourned the proceedings for the tea break. During the adjournment Mr Zuma left the Commission and  
20 did not return after the adjournment. He did so without my permission.

The summons directing Mr Zuma to attend and remain in attendance was at the time of his departure from the Commission still valid and binding and had not been set aside.



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Section 6[1] of the Commissions Act Number 8 of 1947, which deals with attendance of a witness who has been summoned is clear, it reads:

“Any person summoned to attend and give evidence before a Commission who without sufficient cause fails to attend at the time and place specified in the summons, or to remain in attendance until he is excused by the Chairman of the Commission from further attendance shall be guilty of an offence.”

10 I read this section again:

“Any person summoned to attend and give evidence before a Commission who without sufficient cause fails to attend at the time and place specified in the summons, or to remain in attendance until he is excused by the Chairman of the Commission from further attendance shall be guilty of an offence.”

The decision by Mr Zuma to leave the Commission without obtaining permission and in the face of a valid and binding summons is a serious matter. It impacts on the integrity of  
20 the Commission, the Rule of Law and public accountability, and in this regard it is important that we all remember that the matters which this Commission is investigating and on which it seeks to question Mr Zuma are matters that happened largely when Mr Zuma was President of the Republic and had an obligation to account for what was

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happening during his presidency as the President of the Republic.

The Rule of Law and public accountability are values that are fundamental to our Constitutional Order, also our Constitution promises all of us that we are all equal before the law. This is a principle of our Constitution that is fundamental to a society that is built upon the Rule of Law and it is one that goes to the foundations of our Constitutional Order.

10 Mr Zuma could not, it would seem, have been under any confusion about the need to request my permission on Tuesday because on Tuesday through his Counsel he did request my permission in order not to be in attendance on Wednesday. On Thursday before he left the Head of the Commission's Legal Team had made it clear that as long as the summons stood it was binding and it was not up to him to excuse himself. Nevertheless Mr Zuma did excuse himself.

20 His conduct may send a message to all other witnesses, who might not be comfortable to come and answer questions in this Commission that it is the right thing to do for a witness who has been summoned to decide to excuse himself and that witnesses who have been summoned can come and go as they please before the Commission. If that were to happen this Commission

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would not be able to operate. It is therefore quite important for the proper functioning of this Commission that Mr Zuma's conduct be dealt with in a manner in which our law provides it should be dealt with.

This Commission is very clear about what should happen arising out of the events of Thursday and it remains determined to carry out its functions in accordance with the law and the Constitution. Given the seriousness of Mr Zuma's conduct and the impact that his conduct may  
10 have on the work of the Commission and the need to ensure that we give effect to the Constitutional provisions that everyone is equal before the law I have decided to request the Secretary of the Commission to lay a criminal complaint with the South African Police against Mr Zuma, so that the police can investigate his conduct and in this regard the Secretary would make available to the Police all information relevant as well as make information available to the National Prosecuting Authority. Most of the  
20 evidence is available because the proceedings of this Commission were live on television and exactly what happened from the time I began to deliver my ruling up to the time I adjourned the proceedings would be available.

Apart from that the Commission is going to take certain steps:

1. I am going to determine other dates when Mr Zuma

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23 NOVEMBER 2020 – DAY 310

must appear before this Commission.

2. The Secretary will issue a summons to be served on Mr Zuma to appear before this Commission during those dates.

3. That summons will be served on Mr Zuma.

4. The Secretary of the Commission will make an application to the Constitutional Court on an urgent basis for the Constitutional Court to issue an order that will compel Mr Zuma to appear before the Commission in accordance with the summons that will be issued, in other words to comply with the summons and when he attends the proceedings of the Commission in compliance with the summons not to leave the proceedings without my permission.”

10

The order that will also be sought will include an order compelling Mr Zuma to comply with directives that are issued in terms of Regulation 10[6] of the Regulations of this Commission, which were promulgated by Mr Zuma when he was still President, which require him to furnish certain affidavits to the Commission.

20

That is what is going to be done. This Commission is quite clear about the steps that will be taken and those steps will be taken as a matter of urgency.

That is the end of the announcement.

**ADV PRETORIUS SC:** Noted, thank you Chair.

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IM11

## LIST OF RULE 3.3 NOTICES ISSUED TO MR JG ZUMA

FORMER PRESIDENT JACOB ZUMA RULE 3.3 NOTICES							
No.	36	Evidence Leader	Workstream	Witness Name & Surname	Testified (Yes/No)	Witness 1st Hearing Date	3.3 Sent Date
1	1	V Maleka SC	Appointments & Dismissals	Maseko, Mr Themba James	Yes	29 Aug 18	02 Aug 18
2	1	M Sello	Appointments & Dismissals	Mentor, Ms Petronella	Yes	27 Aug 18	03 Aug 18
3	1	K Hofmeyr	Government Advertising	Williams, Miriam Phumla	Yes	31 Aug 18	17 Aug 18
4	1	P Pretorius SC	Public Enterprise	Hogan, Ms Barbara	Yes	12 Nov 18	22 Aug 18
5	1	P Pretorius SC	Appointments & Dismissals	Nene, Nhlanihla Minister	Yes	03 Oct 18	12 Oct 18
6	1	P Pretorius SC	Public Enterprise	Gordhan, Mr Pravin	Yes	19 Nov 18	23 Oct 18
7	1	R Molefe	Appointments & Dismissals	Mucfhe, Adv Sam	Yes	28 Nov 18	20 Nov 18
8	1	L Gcabashe SC	Appointments & Dismissals	Nyanda, General Siphwe	Yes	28 Feb 19	22 Nov 18
9	1	Z Buthelezi	Appointments & Dismissals	Ramathodi, Adv Ngoako Abel	Yes	28 Nov 18	22 Nov 18
10	1	L Gcabashe SC	Appointments & Dismissals	Manuel, Mr Trevor	Yes	28 Feb 19	24 Nov 18
11	1	P Pretorius SC	Bosasa	Aguzzi A	Yes	16 Jan 19	30 Jan 19
12	1	V September	LEA	Booyesen, Mr Johan	Yes	15 Apr 19	11 Apr 19
13	1	V September	LEA	Booyesen, Mr Johan	Yes	15 Apr 19	10 Apr 19
14	1	T Norman SC	SABC	Sundaram, Mr Rajesh R	Yes	03 Jun 19	03 May 19
15	1	P Pretorius SC	LEA	Nxasana, Mr Moloi	Yes	08 Jul 19	24 Jun 19
16	1	T Norman SC	Waterkloof	Sindane, Ms Nonkululeko	Yes	03 Jul 19	25 Jun 19
17	1	S Wentzel	LEA	Simons, Mr Brent	Yes	26 Aug 19	20 Aug 19
18	1	S Wentzel	LEA	Hlungwani, Mr Abegnigo	Yes	26 Aug 19	23 Aug 19
19	1	V September	LEA	Roelofse, Mr Kobus D	Yes	17 Sep 19	03 Sep 19
20	1	P Pretorius SC	LEA	Maqetuka, Mr Mzuukile	Yes	26 Nov 19	11 Nov 19
21	1	P Pretorius SC	LEA	Njenje, Mr Lizo	Yes	26 Nov 19	11 Nov 19
22	1	P Pretorius SC	LEA	Shaik, Mr Rieaz	Yes	25 Nov 19	11 Nov 19
23	1	S Wentzel	LEA	Lebeya, Gen Godfrey	No	Not Testified	13 Dec 19
24	1	S Wentzel	LEA	Shingange, Mr Ronald	Yes	14 Jan 20	19 Dec 19
25	1	M Mbikwa	Aviation	Mr Y	Yes	19 Feb 20	31 Jan 20
26	1	V Sona SC	PRASA	Achmat, Mr Zackie	Yes	19 Mar 20	19 Feb 20
27	1	V Sona SC	PRASA	Molefe, Dr Popo	Yes	11 Mar 20	21 Feb 20
28	1	P Pretorius SC	LEA	Maqetuka, Mr Mzuukile (2)	Yes	10 Jul 20	29 Jun 20
29	1	V Motshe SC	Bosasa	Dube, Ms Bongwe	Yes	25 Aug 20	08 Jul 20
30	1	P Seleka SC	Eskom	Linnell, Mr Nicholas	Yes	08 Sep 20	25 Aug 20
31	1	P Seleka SC	Eskom	Matona, Mr T	Yes	07 Sep 20	25 Aug 20
32	1	P Seleka SC	Eskom	Tsotsi, Mr Zola	Yes	07 Sep 20	25 Aug 20
33	1	P Pretorius SC	Appointments & Dismissals	Jonas, Mr Mcebisi	Yes	24 Aug 20	28 Aug 20
34	1	P Seleka SC	Eskom	Mokholo, Ms Matsietsi	Yes	09 Oct 20	28 Sep 20
35	1	P Seleka SC	Eskom	Tsotsi, Mr Zola	Yes	09 Oct 20	28 Sep 20
36	1	A Franklin SC	SARS	Williams, Mr Athol	No	Not Testified	26 Oct 20

M.A.

IM12



2<sup>nd</sup> floor, Hills de House  
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JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

NOTICE IN TERMS OF RULE 3.3

TO : Mr Jacob Godleyihlekisa Zuma  
Nkandla Homestead  
Nkandla Village  
Kwa-Zulu Natal  
3855

AND C/O : Mr Daniel Mantsha (Attorney of record)  
Lugisani Mantsha Attorneys  
1<sup>st</sup> Floor, Burnside Islands, Block 6  
410 Jan Smuts Avenue  
Craighall  
Johannesburg, 2196  
Tel: (011) 781 0099

M.A.

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

1. The Commission's Legal Team intends to present the evidence of Mr Themba Mveti James Maseko, whose evidence implicates or may implicate you in unlawful and improper conduct, including a violation of your constitutional obligations to act accountably and responsibly, in accordance with the obligations imposed upon you in terms of section 92(2) and (3) of the Constitution; and also a violation of your constitutional obligations to conduct yourself free from a conflict of interest, and not to utilize information acquired by or which came to your possession as the President of the Republic to enrich or benefit yourself, the Gupta family or TINA Media (Pty) Limited, a company that was then owned or controlled by the Gupta family, and thereby acted inconsistent with the provisions of section 96(2)(b) and (c) of the Constitution.
2. Copies of the witness's statements that implicate you are attached as "A" and "B".
3. The witness statement implicates you in the following respects:
  - 3.1. In or about September/October 2010,
    - 3.1.1. you had a telephonic conversation with Mr Maseko in which you required him to accede to the demands from the Guptas for government advertising to be placed with their new media company with the purpose of benefiting that company without due respect and regard for compliance with procurement obligations imposed upon organs of state as are prescribed in section 217(1) of the Constitution and section 53(1)(a)(iii) of the Public Finance Management Act, 1 OF 1999, as amended.



M-A

- 3.1.2. you facilitated or sought to facilitate the Guptas' unlawful demands for the unlawful and improper procurement of government services to be directed to their media company by requiring Mr Maseko to ensure that they gain access to the entire budget of government advertising spend managed or administered by the Government Communications and Information Services.
- 3.2. In early 2011, you removed Mr Maseko or caused him to be removed from the position of Chief Executive Officer of the Government Communication and Information Service when he refused to accede to the demands of Mr Ajay Gupta.
4. The witness will give evidence at the hearing commencing on or about 20 August 2018 at 4<sup>th</sup> floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg.
5. You may attend the hearing at which the witness gives evidence.
6. You may be assisted by a legal representative when the witness gives evidence;
7. If you wish to:
- 7.1. give evidence yourself;
  - 7.2. call any witness to give evidence on your behalf; or
  - 7.3. cross-examine the witness
- then you must apply, within fourteen calendar days of this notice, in writing to the Commission for leave to do so.
8. An application referred to in paragraph 7 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness's statement in so far as it implicates you. The statement must identify

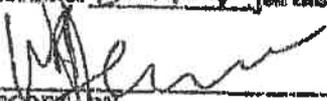


M - A

what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.

9. In the event that believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out in paragraph 4 above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

DATED at Shamshin on this 1st day of July 2018.

  
 \_\_\_\_\_  
 SECRETARY  
 Judicial Commission of Inquiry into Allegations of  
 State Capture, Corruption and Fraud  
 in the Public Sector Including Organs of State



M.A.



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

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NOTICE IN TERMS OF RULE 3.3

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**TO :** Mr Jacob Gedleyihlekisa Zuma  
 Nkandla Homestead  
 Nkandla Village  
 Kwa-Zulu Natal  
 3855

**AND C/O :** Mr Daniel Mantsha (Attorney of record)  
 Lugisani Mantsha Attorneys  
 1<sup>st</sup> Floor, Burnside Islands, Block 6  
 410 Jan Smuts Avenue  
 Craighall  
 Johannesburg, 2196  
 Tel: (011) 781 0099

M. A.

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

1. The Commission's Legal Team intends to present the evidence of Mabel Patronella Mentor, whose evidence implicates or may implicate you.
2. A copy of the witness's statement that implicates you is attached as "A".
3. The witness statement implicates you in the following respects:
  - 3.1 Ms Mentor says that she was removed from the position of Chairperson of the Portfolio Committee on Public Enterprises for refusing to meet with you in China in 2010.
  - 3.2 In October 2010, and at the Gupta residence in Saxonwold,
    - 3.2.1 Mr Ajay Gupta:
      - (a) told Ms Mentor that you would be reshuffling cabinet the following week, and
      - (b) offered her the position of Minister of Public Enterprises if she facilitated the closure of the SAA-India route.
    - 3.2.2 when Ms Mentor told you of this discussion, you did not negate or contradict what she told you about her discussion with Mr Ajay Gupta.
4. The witness will give evidence at the hearing commencing on 20 August 2018 at 4<sup>th</sup> floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg.

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- 5. You may attend the hearing at which the witness gives evidence.
- 6. You may be assisted by a legal representative when the witness gives evidence.
- 7. If you wish to:
  - 7.1 give evidence yourself;
  - 7.2 call any witness to give evidence on your behalf; or
  - 7.3 cross-examine the witness

then you must apply, within fourteen calendar days of this notice, in writing to the Commission for leave to do so.

- 8. An application referred to in paragraph 7 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness's statement in so far as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.

- 9. In the event that you are of the belief that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out in paragraph 4 above and that you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

DATED at Shannon on this 31st day of July 2018.

[Signature]  
 SECRETARY  
 Judicial Commission of Inquiry into Allegations of  
 State Capture, Corruption and Fraud  
 in the Public Sector including Organs of State

[Signature] M-A



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

NOTICE IN TERMS OF RULE 3.3

**TO** : Jacob Gedleyihlekisa Zuma

**C/O** : Mr Daniel Mantsha (Attorney of record)  
 Lngisani Mantsha Attorneys  
 1<sup>st</sup> Floor, Buraside Islands, Block 6  
 410 Jan Smuts Avenue, Craighall  
 Johannesburg, 2196  
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IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF  
 INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION, FRAUD IN  
 THE PUBLIC SECTOR INCLUDING ORGANS OF STATE ("THE COMMISSION"),  
 YOU ARE HEREBY GIVEN NOTICE THAT:

 M.A.

- 1 The Commission's Legal Team intends to present the evidence of Ms Barbara Hogan, whose evidence implicates or may implicate you.
- 2 A copy of the witness's statement that implicates you is attached as "A".
- 3 The witness statement implicates you in, *inter alia*, the following respects:
  - 3.1 In or around the year 2009, you improperly and unlawfully sought to interfere in the management of Eskom by pressurising the witness to reinstate Mr Jacob Maroga ("Mr Maroga") as the Chief Executive Officer ("CEO") of Eskom, whereas -
    - 3.1.1 the board of Eskom had taken the unanimous decision to refuse Mr Maroga's request for reinstatement after his resignation, and
    - 3.1.2 labour related issues of CEO's fell beyond the witness's purview in her role as a Minister,
  - 3.2 That you improperly and unlawfully sought to interfere in the management of Transnet by insisting on the appointment of Mr Siyabonga Gama ("Mr Gama") as a CEO of Transnet, whereas -
    - 3.2.1 the board had nominated another excellent candidate to be CEO,
    - 3.2.2 Mr Gama was facing an inquiry regarding certain irregularities, and
    - 3.2.3 the board of Transnet opined that Mr Gama was not yet CEO material.

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M.A.

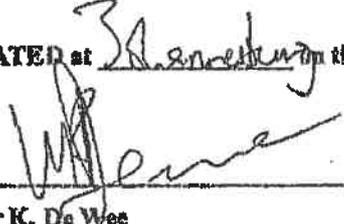
- 3.3 That you improperly and unlawfully sought to interfere in the management of Transnet by preventing the witness from -
- 3.3.1 nominating the CEO candidate chosen by the board of Transnet, and
  - 3.3.2 designating a new Chairperson of the board of Transnet where the incumbent's term of office had expired.
- 4 The witness will give evidence at the hearing on 05 September 2018 at 4<sup>th</sup> floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg.
- 5 You may attend the hearing at which the witness gives evidence.
- 6 You may be assisted by a legal representative when the witness gives evidence;
- 7 If you wish to:
- 7.1 give evidence yourself;
  - 7.2 call any witness to give evidence on your behalf; or
  - 7.3 cross-examine the witness
- then you must apply, within fourteen calendar days of this notice, in writing to the Commission for leave to do so.
- 8 An application referred to in paragraph 7 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness's statement in so far as it implicates you. The statement must

 3  
M & A

identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.

- 9 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out in paragraph 4 above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

DATED at Blantyre on this 22<sup>nd</sup> day of August 2018.

  
 \_\_\_\_\_  
 Dr K. De Wee

Secretary

**Judicial Commission of Inquiry into Allegations of  
 State Capture, Corruption and Fraud  
 in the Public Sector including Organs of State**

 4  
 M. A.



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

NOTICE IN TERMS OF RULE 3.3

TO : Mr Jacob Gedleyihlekisa Zuma  
Former President of the Republic of South Africa

C/O : Mr Daniel Mantsha (Attorney of record)  
Lugisani Mantsha Attorneys  
1<sup>st</sup> Floor, Burnside Islands, Block 6  
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[dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)

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

1

M.A.

1. On the 19<sup>th</sup> of November 2018, the Commission's Legal Team intends to present the evidence of Mr Pravin Jannaadas Gordhan ("Mr Gordhan") at its hearing, held at 4<sup>th</sup> floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
2. Due to the fact that you are, or may be implicated by the evidence of Mr Gordhan, you are entitled to attend the hearing at which that evidence would be presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented.
3. The evidence of Mr Gordhan, amongst others, indicates the following:
  - 3.1 During November 2011 to December 2015, you initiated the process and coordinated the procurement of nuclear energy power, to the extent of 9.6 GW, by the Republic of South Africa from the Russian Federation. In that respect you:
    - 3.1.1 established or procured the establishment of the National Nuclear Energy Executive Coordinating Committee ("NNEECC") in order to facilitate the procurement of nuclear energy power in order to provide oversight and decision-making on the nuclear energy policy and the anticipated nuclear build programme; and
    - 3.1.2 in June 2014, converted the NNEECC into the Energy Security Subcommittee ("the ESCS") which you chaired, in order to exercise



M.A.

oversight, coordination and control of all activities relating to the entire energy sector for the Republic, including the nuclear build programme.

4. The allegations set out in the evidence of Mr Gordhan, implicate or may implicate you, in the following respects:

4.1 You sought to direct the procurement and implementation of the nuclear build programme without the conclusion of prior feasibility studies and the financing model that the Department of Energy and National Treasury had to do and complete in order to assess the feasibility and financial affordability of the nuclear build programme. In doing so, you contravened sections 5, 6, 11 and 14 of the Public Finance Management Act No. 1 of 1999 ("the PFMA");

4.2 You took a personal interest in the procurement of the nuclear energy power build programme and sought to facilitate its implementation without due regard to the requisite public procurement obligations imposed upon organs of state in terms of the relevant provisions of the PFMA. In that regard you-

4.2.1 failed to ensure that there was sufficient budgeted funds to finance the nuclear build programme and that the Republic could afford that programme, in breach of section 38 of the PFMA;

4.2.2 failed to ensure that the procurement of the nuclear build programme from the Russian Federation had been preceded by an open and competitive public procurement process as required in terms of section 38 (1)(a)(iii) of the PFMA, insofar as this prescript requires that the nuclear build programme be implemented through a state department,



such as the Department of Energy, or section 51(1)(a)(iii), to the extent that this prescript requires that the nuclear build programme be implemented through a state-owned entity such as Eskom SOC limited; and

4.2.3 sought and/or purported to bind the Republic to a substantial financial obligation without any prior vote of expenditure by Parliament or allocation of budget for the procurement of the nuclear build programme in contravention of sections 63 and 64 of the PFMA.

5. In your capacity as the President you were required to conduct yourself and discharge your obligations consistent with the foundational values of accountability, transparency and openness in terms of section 1(d) of the Constitution of the Republic of South Africa, 1996 (the Constitution). You were also required to uphold and defend the Constitution in terms of section 83(b) of the Constitution. Similarly, you were required to avoid the risk of conflict of interest or exposure thereto between your official responsibilities and private interests as required by section 96(2)(b) of the Constitution.
6. In the event that the above allegations are found to be true, then you as the former President and Head of the National Executive, would have acted in violation of the aforesaid prescripts.
7. The evidence of Mr Gordhan which implicates or may implicate you in the allegations above, is set out in paragraphs 7 to 11, 14, 15, 37, 37(2), 38 to 49 and 146 to 151 of his statement.

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M A

8. The allegations set out in the evidence of Mr Gordhan further implicate or may implicate you, in the following respects:

8.1 In or around April 2014, you improperly and/or unlawfully sought to execute or cause to be executed, the Petronas transaction without appropriate due diligence being conducted, thereby exposing National Treasury to financial risk in the amount of R 18,6 billion. In connection thereto, you improperly and/or unlawfully sought to execute or cause such transaction to be executed, in the excess amount of R6 billion, whereas the transaction amount would or could have been closer to between R12 billion and R14 billion.

8.2 The allegations set out in the evidence of Mr Gordhan which implicate or may implicate you in the above allegations is set out in paragraphs 50 to 56 of his statement.

8.3 The allegations set out in the evidence of Mr Gordhan further implicate or may implicate you in the following respects:

8.3.1 In or around the year 2016, you were aware of the refusal by the Commissioner of the South African Revenue Service ("SARS"), Mr Tom Moyane, to account to Mr Gordhan as the Minister of Finance;

8.3.2 You were also aware of the campaign by Mr Moyane to discredit Mr Gordhan and National Treasury, and to orchestrate a criminal prosecution against Mr Gordhan for his knowledge and alleged lack of action against the so-called "rogue unit" in SARS; and

 5  
M. A.

8.3.3 You failed to take appropriate action against Mr Moyane and to give appropriate support to Mr Gordhan, a member of the National Executive under your leadership.

9. In the event that the above allegations are found to be true, then you as the former President and Head of the National Executive, would have failed to protect, defend and uphold the Constitution as was required of you in terms section 92(3)(a) thereof, and failed to uphold your oath of office as required in terms of section 95, by ensuring that Mr Moyane acted in accordance with the principles set out in section 195 of the Constitution.

10. The evidence of Mr Gordhan which implicates or may implicate you in the above allegations is set out in paragraphs 124 to 127 and 130 of his statement.

11. A full copy of the statement of Mr Gordhan is annexed hereto marked "A".

12. If you wish to:

- 12.1 give evidence yourself;
- 12.2 call any witness to give evidence on your behalf; or
- 12.3 cross-examine the witness

then you must apply, within fourteen calendar days of this notice, in writing to the Commission for leave to do so.

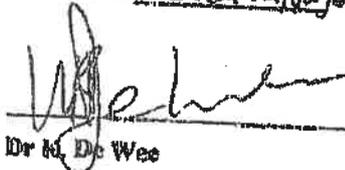
13 An application referred to in paragraph 12 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness's statement in so far as it implicates you. The statement must

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 M.A.

identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.

- 14 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out in paragraph 1 above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

DATED at Shamshigon this 23rd day of October 2018.



Dr M. De Wee

Secretary  
Judicial Commission of Enquiry into Allegations of  
State Capture, Corruption and Fraud  
in the Public Sector including Organs of State



7  
M.A.



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

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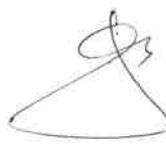
NOTICE IN TERMS OF RULE 3.3

---

**TO:** Mr. Jacob Gedleyihlekisa Zuma

**C/O:** Mr. Daniel Mantsha (Attorney of Record)  
 Lugisani Mantsha Attorneys  
 1<sup>st</sup> Floor, Burnside Islands, Block 6  
 410 Jan Smuts Avenue, Craighall  
 Johannesburg, 2196  
 Tel: (011) 781 0099  
[dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)

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

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 M. A.

- 1 The Commission's Legal Team has presented the evidence of Minister Nhlanhla Musa Nene, whose evidence may have implicated you, at the hearing of the Commission on 03 October 2018.
- 2 A copy of the witness's statement that implicates you or may implicate you is attached as "A".
- 3 The witness statement implicates you or may implicate you in, *inter alia*, the following respects:
  - 3.1 In or around the year 2015, you improperly and/or unlawfully sought to pressurise the witness to sign a letter of agreement ("agreement") relating to a proposed agreement concerning the nuclear build programme ("the programme"), with the Russian government, whereas -
    - 3.1.1 the letter was not prepared pursuant to an approved funding model, despite such model being necessary for the determination of affordability of the programme;
    - 3.1.2 the programme would have had material consequences for South Africa;
    - 3.1.3 the programme would have had material and negative financial consequences in regard to South Africa's investment grading;
    - 3.1.4 the contemplated recovery of the nuclear build costs through tariffs would have had profound cost consequences for the users of electricity;

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M. A.

- 3.1.5 there would have been material risks associated with the nuclear build programme, including but not limited to; large upfront capital investment, an extended construction period, risks arising from delays and disruptions, potential cost overruns and increases in financing costs;
- 3.1.6 the witness would have acted contrary to his statutory obligations had he signed the letter, this in the absence of an appropriately approved funding model;
- 3.1.7 the programme would have been financially unsustainable in the long term;
- 3.1.8 the Russian Minister of Finance and Deputy Minister of Finance, who were essential counterparts from whom financial commitments would have been sought by the South African government pursuant to the programme, had not been privy to discussions relative to the programme; and
- 3.1.9 the concerns raised by National Treasury relative to the feasibility of the proposed nuclear programme presented by the Department of Energy were not included in such presentation. Nevertheless, a decision was taken at a Cabinet meeting on or about December 2015 where you were present, to proceed with the programme.
- 3.2 That at a meeting of Cabinet members on or about December 2015, you improperly and/or unlawfully-

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M.A.

3.2.1 agreed to proceeding with the programme against the advice of the witness and the Director-General of National Treasury, and in the absence of proper consideration of the fiscal implications; and

3.2.2 agreed to the Department of Energy issuing a Request for Proposals for the programme and to the final funding model being informed by the responses received to the request.

4 Due to unavoidable circumstances, the Commission received the final statement of the witness only on the eve of Monday 01 October 2018. As a result, the Commission could not serve this Notice on you, prior to the leading of the evidence of the witness. To this end, please be advised that the Legal Team will be applying for condonation for late service.

5 If you wish to:

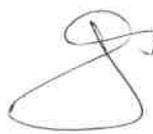
5.1 give evidence yourself;

5.2 call any witness to give evidence on your behalf; or

5.3 cross-examine the witness

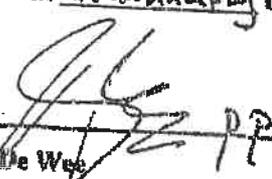
then you must apply, within fourteen calendar days of this notice, in writing to the Commission for leave to do so.

6 An application referred to in paragraph 5 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness's statement in so far as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.

  
M.A.

- 7 In the event that you believe that you have been prejudiced by the issuance of this notice after the witness has given his evidence, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

DATED at Johannesburg on this 9<sup>th</sup> day of October 2018.

  
\_\_\_\_\_  
Dr K. de Weert

Secretary

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



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

**NOTICE IN TERMS OF RULE 3.3**

**TO** : Mr. Jacob Gedleyihlekisa Zuma  
 Former President of the Republic of South Africa

**C/O** : Mr Daniel Mantsha (Attorney of record)  
 Lugisani Mantsha Attorneys  
 1<sup>st</sup> Floor, Burnside Islands, Block 6  
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[dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)

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

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 M.A.

- 1 On the 28<sup>th</sup> of November 2018, the Commission's Legal Team intends to present the evidence of Advocate Mahlodi Sam Muofhe ("Adv. Muofhe") at its hearing held at 4<sup>th</sup> Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg at 10h00. The evidence in question implicates you, or may implicate you, in unlawful, illegal or improper conduct in the respects set out below.
- 2 Due to the fact that you are or may be implicated by the evidence of Adv. Muofhe, you are entitled to attend the hearing at which that evidence would be presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented.
- 3 The allegations set out in the evidence of Adv. Muofhe implicates or may implicate you in, *inter alia*, the following respects:
  - 3.1 In or around the years 2014 and 2015, you:
    - 3.1.1 took a personal interest in the appointment of Mr. Mzwanele Manyi as the Director-General of the Department of Mineral Resources (the Department);
    - 3.1.2 sought to improperly and/or unlawfully influence Mr. Manyi's appointment, without due regard to the appointment requirements imposed upon the Department in terms of the relevant provisions of the Public Service Act, 1994; and
    - 3.1.3 in acting as alleged above, you did so in circumstances where the former Minister of the Department, Advocate Ramatlhodi Minister, held the view that Mr. Manyi did not possess the necessary qualifications for the post at hand.
- 4 The evidence of Adv. Muofhe which implicates, or may implicate you, in the above allegations is set out in paragraphs 13.4, 13.5, 13.11 and 13.13 of his statement.
- 5 A full copy of the statement of Adv. Muofhe is annexed hereto marked "A".

Handwritten signature and initials, possibly "M.A.", at the bottom right of the page.

- 6 If you wish to:
- 6.1 give evidence yourself;
  - 6.2 call any witness to give evidence on your behalf; or
  - 6.3 cross-examine the witness

then you must apply, within nine calendar days of this notice, in writing to the Commission for leave to do so.

- 7 An application referred to in paragraph 6 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness's statement in so far as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.
- 8 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 9 The witness statement provided to you is confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.

DATED at Stellenbosch on this 20th day of November 2018.



Dr K. De Wee

Secretary

Judicial Commission of Inquiry into Allegations of

 3  
M.A.



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

**NOTICE IN TERMS OF RULE 3.3**

**TO : Mr. Jacob Gedleyihlekisa Zuma**  
**Former President of the Republic of South Africa**

**C/O : Mr Daniel Mantsha (Attorney of record)**  
**Lugisani Mantsha Attorneys**  
**1<sup>st</sup> Floor, Burnside Islands, Block 6**  
**410 Jan Smuts Avenue, Craighall**  
**Johannesburg, 2196**  
**Tel: (011) 781 0099**  
**[dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)**

**THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
 CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE  
 ("THE COMMISSION"). HEREBY GIVES NOTICE THAT:**

**M. A.**

1. On the 10<sup>th</sup> of December 2018, the Commission's Legal Team intends to present the evidence of General Sphiwe Nyanda ("Gen. Nyanda") at its hearing, held at 4th floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg at 10:00 am. The evidence in question implicates, or may implicate you.
2. Due to the fact that you are, or may be implicated by the evidence of Gen. Nyanda you are entitled to attend the hearing at which that evidence would be presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented.
3. The allegations set out in Gen. Nyanda's evidence implicates, or may implicate you, in, *inter alia*, the following respects:
  - 3.1 In or around the year 2011, you may have improperly and/or unlawfully been influenced by the one of the Gupta brothers, relative to Cabinet appointments;
  - 3.2 In or around the year 2011, you failed to take action relating to the allegations raised by Mr. Fikile Mbalula, relative to his being informed of his pending appointment as Minister of Sports and Recreation by one of the Gupta brothers, before you made the official announcement.
4. A full copy of the statement of General Nyanda is annexed hereto marked "A".
5. If you wish to:
  - 5.1 give evidence yourself;
  - 5.2 call any witness to give evidence on your behalf; or
  - 5.3 cross-examine the witness

then you must apply, within fourteen (14) calendar days of this notice, in writing, to the Commission for leave to do so.

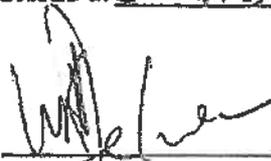
- 6 An application referred to in paragraph 5 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you

 S. M. A.

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

- 7 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out in paragraph 1 above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 8 The witness statement provided to you is confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.

DATED at Johannesburg on this 22nd day of November 2018.



Dr K. De Wee  
Secretary

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



To The Commission of Inquiry into State Capture (02/11/2018)

I General (ret) Siphwe Nyanda, ID#5005225680085, swear under oath that I was a member of the African National Congress National Executive Committee from December 2007 until December 2012, and that in a meeting of the above mentioned committee in early 2011 or there about, following a cabinet reshuffle of October 31, 2010, in which reshuffle Fikile Mbalula was appointed as Minister of Sport, the said Fikile Mbalula told the meeting the following:

1. That he had been told by the Gupta brothers or one of them before his actual appointment, that he would be elevated from a deputy minister to Minister of Sport.
2. That he was indeed subsequently appointed by President Zuma to the same post to which the Gupta brother(s) said he would be elevated to.
3. That he therefore had made the conclusion that the Gupta brothers had prior knowledge of the cabinet reshuffle.

I also want to state that at these meetings of the NEC, the president of the ANC (then President Jacob Zuma) customarily made concluding remarks touching on the salient points made in the contributions by members of the NEC during the discussions. Remarkably, President Zuma did not address this important input by Fikile Mbalula, which touched on the astounding claim made by the latter.

This omission or avoidance to respond to this serious claim left me in no doubt as to the veracity of the claim that Mbalula had made.



General (ret) Siphwe Nyanda



M.A.



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

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**NOTICE IN TERMS OF RULE 3.3**

---

**TO** : Mr. Jacob Gedleyihlekisa Zuma  
 Former President of the Republic of South Africa

**C/O** : Mr Daniel Mantsha (Attorney of record)  
 Lugisani Mantsha Attorneys  
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 M. A.

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

1. On the 10<sup>th</sup> of December 2018, the Commission's Legal Team intends to present the evidence of Mr. Trevor Andrew Manuel ( Mr. Manuel) at its hearing, held at 4th floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg at 10:00 am. The evidence in question implicates, or may implicate you.
2. Due to the fact that you are, or may be implicated by the evidence of Mr. Manuel you are entitled to attend the hearing at which that evidence would be presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented.
3. The allegations set out in Mr. Manuel's evidence implicates, or may implicate you, in, *inter alia*, the following respects:
  - 3.1 In or around the year 2011, you may have improperly and/or unlawfully been influenced by one of the Gupta brothers, relative to Cabinet appointments;
  - 3.2 In or around the year 2011, you failed to take action relating to the allegations raised by Mr. Fikile Mbalula, relative to his being informed of his pending appointment as Minister of Sports and Recreation by one of the Gupta brothers, before you made the official announcement.
4. A full copy of the statement of Mr. Manuel is annexed hereto marked "A".
5. If you wish to:
  - 5.1 give evidence yourself;
  - 5.2 call any witness to give evidence on your behalf; or

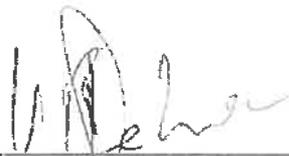
 M. A.

### 5.3 cross-examine the witness

then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.

- 6 An application referred to in paragraph 5 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness's statement in so far as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.
- 7 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out in paragraph 1 above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 8 The witness statement provided to you is confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.

DATED at Pretoria on this 24th day of November 2018.



**Dr K. De Wee**

**Secretary**

**Judicial Commission of Inquiry into Allegations of**

**State Capture, Corruption and Fraud**

**in the Public Sector including Organs of State**

◀ SIGN HERE



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M. A.

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

---

**AFFIDAVIT**

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I, the undersigned,

**TREVOR ANDREW MANUEL**

do hereby make oath and state that:

1. I am an adult male, living in Johannesburg.
2. The facts contained in this affidavit are within my personal knowledge, except where the context indicates otherwise, and are both true and correct.
3. I served as the Minister of Trade and Industry from 1994 until 1996 and subsequently as the Minister of Finance from 1996 until 2009, during the presidencies of Nelson Mandela, Thabo Mbeki and Kgalema Motlanthe. I was the Minister in the Presidency for the National Planning Commission from 2009 to 2014 under President Jacob Zuma. I am currently the Chairperson of Old Mutual Limited.
4. I have served on the National Executive Committee ("NEC") of the African National Congress ("ANC") for 21 years from 1991 to 2012.
5. On 1 October 2018, the Secretary of the Commission, Mr Khoiso De Wee, contacted me to provide insight into statements made by Mr Fikile Mbalula ("Mr Mbalula") at an ANC NEC meeting in 2011.
6. I attended the ANC NEC meeting in 2011 at which we discussed the influence of the Gupta family on government affairs, amongst other matters.



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7. At this meeting, Mr Mbalula tearfully recounted that he had been summoned to the Gupta residence in Saxonwold, Johannesburg, where he was informed by Mr Atul Gupta that he would be promoted from Deputy Minister of Police to Minister of Sport and Recreation.
8. Mr Mbalula recounted that Mr Zuma's announcement of the Cabinet reshuffle and his appointment as Minister of Sport and Recreation was made after his meeting with Mr Atul Gupta at his Saxonwold residence. I recall that he was visibly disturbed that Mr Atul Gupta had been the person to inform him of the ministerial appointment.
9. In 2017, Mr Mbalula and I engaged in a robust exchange of correspondence. I wrote an open letter to Mr Mbalula, published in the *Daily Maverick* on 7 June 2017, in which I recounted his statements as:

*"Odd, because I have a clear memory of an incident that may be at the heart of why you have responded to me in the manner you have. That memory goes back to an ANC NEC meeting in August 2011. There, the Fikile Mbalula we once knew wept as he spoke. He explained he'd been called to Saxonwold by the Guptas in May 2009 and was told that he was being promoted from the position of Deputy Minister of Police to Minister of Sport. A few days later the President confirmed this change. The weeping was about the fact that he, Fikile, was happy that he'd made it into Cabinet but that it was wrong to have learnt this from Atul Gupta. That weeping was then, and this is now. Perhaps there are still a few debts to be called in by Saxonwold."*

I annex a copy of the open letter as T11.

10. As far as I am aware, Mr Mbalula has never publicly denied my account of his tearful confession. On 17 June 2017, Mr Mbalula responded to my description of his contribution at the NEC meeting as follows:

*"Manuel decided not to deal with the substantive issues I raised in my opinion but carry on at a tangent about me crying after the Gupta family got to know possibly from someone close to the president that I was to be nominated to be*



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*Sport Minister, we can all make guesses as to how this information may have been leaked to them. Newspapers too usually get these sort of leaks and announce or speculate about them before the president does.*

*Manuel did not understand what my tears were about. He did not get the point then. I am on the record as stating that I have fundamental problems with the way capitalists operate and the Gupta family show us just how ugly capitalism is. Indeed, they abused privately learnt information to try to position themselves somehow. I was not about that, which is why I was the first to report this to the open NEC. I am still not part of that; I do not stand for that. On the other hand, Manuel was one of the people who at that NEC meeting did not agree with my stance on the Gupta family."*

11. I attach Mr Mbalula's full response, published as an open letter in the *Daily Maverick*, as TM2.
12. When consulting with my legal representatives in preparation of this affidavit, I noted in my open letter (TM1) that Mr Mbalula met Mr Atul Gupta in May 2009. However, having regard to the sequence of events, this was in error as the visit must have taken place in October 2010, shortly before Mr Mbalula's appointment as the Minister of Sport and Recreation on 1 November 2010.
13. I have nothing further to declare regarding Mr Mbalula's statements at the NEC meeting and confirm that I am available to assist the Commission when called upon to do so in future.

  
 \_\_\_\_\_  
 TREVOR ANDREW MANUEL

R. F. S

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M A

I HEREBY CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at SANDTON on the 11<sup>th</sup> day of OCTOBER 2018, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS



M-A<sup>4</sup>



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

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

**NOTICE IN TERMS OF RULE 3.3**

**TO : FORMER PRESIDENT JACOB GEDLEYIHLEKISA ZUMA**  
**C/O : LUGISANI MANTSHA ATTORNEYS**  
**TEL : 011 781 0099**  
**EMAIL : [dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)**

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

- 1 The Commission’s Legal Team intends to present the evidence of Mr Johan Booyesen (“Mr Booyesen”) at its hearing held at 4<sup>th</sup> Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The presentation of his evidence is scheduled to commence on Monday, 15 April 2019 or so soon thereafter as his evidence may be heard. The evidence in question implicates, or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 The allegations in the evidence of Mr Booyesen implicates or may implicate you in, *inter alia*, the following respects:
  - 2.1 You improperly and/or unlawfully sought to-

- 2.1.1 unduly interfere in the investigative independence of the National Prosecuting Authority (“NPA”), the Directorate for Priority Crime Investigation (“DPCI”) commonly known as the HAWKS and/or the South African Police Services (“SAPS”);
- 2.1.2 unduly decline and/or delay and/or obstruct recommended prosecutions;
- 2.1.3 participate in the undue persecution of officials of the NPA, the Independent Police Investigative Directorate (“IPID”) and/or the DPCI; and
- 2.1.4 destabilize the NPA, the DPCI and/or the SAPS.

2.2 In acting as set out above, you allegedly sought to enable the state capture of the criminal justice system.

3 The relevant portion of the statement of Mr Booyesen which implicate, or may implicate, you in the above allegations is annexed hereto marked “A”. Your attention is drawn to paragraphs 46, 83-138, 167-179, 186-190, 201-202 and 230 of his statement and the annexures referred to therein, if any.

4 Due to the fact that you are implicated or may be implicated by the evidence of Mr Booyesen, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr Booyesen will be uploaded on the Commission’s website ([www.sastatecapture.org.za](http://www.sastatecapture.org.za)), as soon as he concludes his evidence. The transcript will be uploaded daily.

5 If you wish to:

- 5.1 give evidence yourself;
- 5.2 call any witness to give evidence on your behalf; or
- 5.3 cross-examine the witness



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then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.

- 6 An application referred to in paragraph 5 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness' statement in so far as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.
- 7 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 8 Please take note that even if you do not make an application under Rule 3.4:
- 8.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and
- 8.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.
- 9 The extracts of the witness statement provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.



DATED AT PARKTOWN ON THIS 9<sup>th</sup> DAY OF APRIL 2019.



---

**MR P PEDLAR**  
Acting Secretary  
Judicial Commission of Inquiry into Allegations of  
State Capture, Corruption and Fraud  
in the Public Sector including Organs of State



M. A. 4



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

**NOTICE IN TERMS OF RULE 3.3**

**TO : FORMER PRESIDENT JACOB G ZUMA**  
**C/O : LUGISANI MANTSHA ATTORNEYS**  
**EMAIL : [dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)**

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

- 1 The Commission’s Legal Team intends to present the further evidence of Mr Mxolisi Nxasana (“Mr Nxasana”) at its hearing held at 4<sup>th</sup> Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The presentation of Mr Nxasana’s evidence will continue **Monday, 8 July 2019**, or so soon thereafter as his evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website ([www.sastatecapture.org.za](http://www.sastatecapture.org.za)) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 Mr Nxasana’s statement, which implicates or may implicate you, is annexed hereto marked “A”.
- 3 The relevant annexures to Mr Nxasana’s statement are annexed hereto marked “B”.

4 Mr Nxasana's evidence implicates or may implicate you in the following respects:

4.1 Despite Mr. Nxasana's request, you failed to intervene and cause or advise that disciplinary steps be taken against Advocates Jiba, Mrwebi and Mzinyathi.

4.2 You took steps to suspend Mr. Nxasana from office when there were no proper or adequate grounds to do so. Alternatively, and if there were such grounds, you did not pursue disciplinary action against Mr. Nxasana to finality.

See generally: **pages 11 to 18** to Mr. Nxasana's statement.

4.3 You deposed to an affidavit in which you stated that Mr. Nxasana had requested to vacate the office of NDPP when you knew this to be false.

See generally: **pages 24 to 27** of Mr. Nxasana's statement.

See too, in particular: **paragraphs 85 and 91.3** of Mr. Nxasana's statement.

5 Due to the fact that you are implicated or may be implicated by the evidence of Mr. Nxasana, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr. Nxasana will be uploaded on the Commission's website as soon as he concludes his evidence. The transcript will be uploaded daily. The evidence of Mr. Nxasana given on Wednesday, 12 June 2019 has been uploaded on the Commission's website.

6 If you wish to:

6.1 give evidence yourself;

6.2 call any witness to give evidence on your behalf; or

6.3 cross-examine the witness

then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.



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



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**DATED AT PARKTOWN ON THIS 24<sup>th</sup> DAY OF JUNE 2019.**



---

**MR P PEDLAR**  
**Acting Secretary**  
**Judicial Commission of Inquiry into Allegations**  
**of State Capture, Corruption and Fraud**  
**in the Public Sector including Organs of State**



The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at Pretoria on this the 11<sup>th</sup> day of June 2019, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

*[Handwritten signature]*  
189006-8  
CST

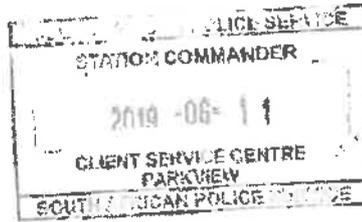
COMMISSIONER OF OATHS

FULL NAMES:

Thabi Eddie Kanyane

DESIGNATION:

CST



ADDRESS:

7 Dundalk Avenue  
Parkview S.A.P.S

*[Handwritten signature]*

M.A.



2<sup>nd</sup> floor, Hillside House  
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**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

**NOTICE IN TERMS OF RULE 3.3**

**TO : FORMER PRESIDENT JACOB GEDLEYIHLEKISA ZUMA**  
**C/O : MABUZA ATTORNEYS**  
**TEL : 011 483 2387**  
**EMAIL : [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)**

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

- 1 The Commission’s Legal Team intends to present the evidence of **MR MCEBISI HUBERT JONAS (“Mr Jonas”)** at its hearing to be held at the Old Council Chamber of the Municipality of the City of Johannesburg, 158 Civic Boulevard Braamfontein, Johannesburg. The presentation of the evidence of Mr Jonas will commence at a date to be confirmed at a later stage. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 The allegations set out in the evidence of Mr Jonas in context implicate or may implicate you in, *inter alia*, allegedly participating in acts of corruption, bribery, fraud, and/or money laundering. The evidence alleges that, *inter alia*, during your term of office as the former President of the Republic of South Africa:

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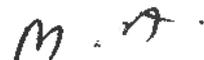
- 2.1 You purported to assert duress and/or undue influence which favoured conclusion of a nuclear deal between the government of the Republic of South Africa and the government of Russia (“the nuclear deal”) absent proper approvals;
  - 2.2 You purported to have improperly coerced the then Minister Nhlanhla Nene, in his capacity as Minister of Finance at the time, to sign a letter addressed to the relevant Russian Authorities concerning the funding of the proposed nuclear programme.
  - 2.3 You purported to have sought Mr Jonas’ intervention in your engagements with the then Minister Nhlanhla Nene in order to facilitate conclusion of the nuclear deal absent proper approvals.
- 3 The entire statement of Mr Jonas which implicate or may implicate you in the above allegations are annexed hereto marked “A”. Your attention is drawn to **paragraphs 4 to 13** of the statement.
  - 4 Due to the fact that you are implicated or may be implicated by the evidence of Mr Jonas, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr Jonas will be uploaded on the Commission’s website as soon as he concludes his evidence. The transcript will be uploaded daily.
  - 5 If you wish to:
    - 5.1 give evidence yourself;
    - 5.2 call any witness to give evidence on your behalf; or
    - 5.3 cross-examine the witness

then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.



M. A.

- 6 An application referred to in paragraph 5 above must be submitted to the Secretary of the Commission. The application must be submitted with an affidavit from you in which you respond to the witness's statement insofar as it implicates you. The affidavit must identify what parts of the witness's statement are disputed or denied and the grounds on which they are disputed or denied.
- 7 If you wish to apply to cross-examine the witness, your application must follow the requirements of Rule 11.3. In other words, it must be a substantive application on affidavit accompanied by a notice of motion.
- 8 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 9 Please take note that even if you do not make an application under Rule 3.4:
  - 9.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and
  - 9.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.
- 10 The witness statement and annexures provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.



- 11 Any response to or application in regard to this notice must be sent to Advocate André Lamprecht and Ms Shannon van Vuuren at [secretary@commissionsc.org.za](mailto:secretary@commissionsc.org.za).

**DATED AT PARKTOWN ON THIS 28<sup>th</sup> DAY OF AUGUST 2020**



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**MS K B SHABALALA**  
**Acting Secretary**  
**Judicial Commission of Inquiry into Allegations**  
**of State Capture, Corruption and Fraud**  
**in the Public Sector including Organs of State**



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

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**AFFIDAVIT IN RESPONSE TO FURTHER QUERIES FROM THE COMMISSION  
OF INQUIRY**

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I,

**MCEBISI HUBERT JONAS**

state as follows:

1. I have been requested to address certain additional questions by the Commission.
2. The facts herein contained are within my personal knowledge, and are to the best of my knowledge and belief both true and correct.
3. In a letter from the Commission, I was requested to address the following:

*"By direction of the Chairperson of the Commission I write to ask you to confirm by way of an affidavit or affirmed declaration whether at some point towards the end of July 2015 you had a meeting or discussion with the former President, Mr Jacob Zuma, in which the former President expressed dissatisfaction with Mr Nhlanhla Nene, the Minister of Finance at the time, in particular about the stance Mr Nene had taken on the process of nuclear procurement in a meeting in Russia and about Mr Nene's refusal to sign a letter that had been presented to him by the then Minister of Energy, Ms Joemat-Pettersson.*



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2. In paragraph 81 of his statement dated 1 October 2018 submitted to the Commission Mr Nene stated that at some point towards the end of July 2015 you called him and told him that you had been called to a meeting by Mr Zuma in which Mr Zuma expressed dissatisfaction with Mr Nene as indicated in the preceding paragraph. It does not appear that you dealt pertinently with this aspect of Mr Nene's evidence either in your statement before the Commission or in your oral evidence.

3. If, indeed, you did have a meeting or discussion with the former President in 2015 – whether in July or another month in that year - in which he expressed dissatisfaction with Mr Nene, the Chairperson would like you to deal with the following in your affidavit or affirmed declaration:

(a) state what the purpose of the meeting or discussion was.

(b) state what the circumstances were which gave rise to the meeting or discussion.

(c) as far as you are able to, give a full account of the meeting or discussion in so far as the discussion may be relevant to the terms of reference of the Commission, including what the former President may have said he was dissatisfied about with regards to Mr Nene and the bases he may have advanced for his dissatisfaction.

(d) state how the meeting or discussion ended.

4. Towards the end of July 2015, I recall it being a Sunday afternoon, I received a request from former President Jacob Zuma, to attend a meeting with him at



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the Saint George Hotel, Pretoria.

5. When I arrived, he appeared agitated and immediately expressed his frustration at former Minister Nene for not pushing the completion of the nuclear deal.
6. His frustration, he explained, was linked to Minister Nene's apparent refusal to sign a letter while he had been in Ufa, Russia for the annual diplomatic summit of heads of state or governments of the BRICS member states that took place earlier that month from 8 – 9th July 2015.
7. Former President Zuma told me that while in Ufa, he and the then Minister of Energy Tina Joemat-Pettersson had held a meeting with Minister Nene and requested that he consider and sign a letter addressed to the relevant Russian Authorities, which, in my reading, would provide a form of guarantee to the Russian government in relation to the proposed nuclear programme if the Russian government were to finance the proposed nuclear programme.
8. I requested a copy of this letter from former President Zuma and, on reading it, told him that I too would not have signed such a document. Apart from the implications of signing the letter (which Mr Nene has set out in his statement), it would appear from the style of the English in which the letter was written that it was likely to have originated from the Russian Authorities.
9. It appeared to me that former President Zuma was angry about what had transpired with Minister Nene. It seemed to me that he was seeking an intervention from me, possibly to persuade Minister Nene to expedite the conclusion of the financial aspects of the nuclear deal. I realised that refusing his request outright would exacerbate the situation.



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10. I, therefore, suggested that former President Zuma call Minister Joemat-Pettersson to our meeting. When she arrived, I suggested to them both that officials from the Department of Energy and the National Treasury should meet the following day, on Monday, to establish a joint task team to manage the process and take it forward. Former President Zuma and Minister Joemat-Pettersson agreed with this suggested way forward.
11. National Treasury had not yet provided a comprehensive response to the nuclear proposal and engaging the Department of Energy would allow the Treasury to express its position more substantively, and of course provide the President with our own view on the commercial and legal viability of the project.
12. After leaving the meeting, I immediately phoned Minister Nene and briefed him, including telling him about the suggested course of action.
13. Minister Nene convened a team of relevant senior Treasury officials and instructed them to establish the joint task team with officials from the Department of Energy. The joint task team was to be responsible for undertaking the required detailed technical work and preparation of a technical report for submission to Cabinet on the financial implications, funding model and risk and mitigation strategies related to the nuclear deal.
14. The course of events following this are contained in Mr Nene's statement and I have not repeated them here.

  
DEPONENT

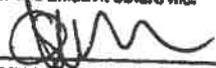


M. A. GK

I HEREBY CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at on the <sup>13<sup>th</sup></sup> ~~13<sup>th</sup>~~ day of November <sup>July</sup> ~~2020~~ 2018, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

  
\_\_\_\_\_  
COMMISSIONER OF OATHS

Full Names:  
Office:  
Business Address

Signed and sworn before me at Johannesburg  
on this 13<sup>th</sup> day of July by the deponent  
who acknowledged knowing and understanding  
the contents of this affidavit before me.  
  
\_\_\_\_\_  
GEORGINA SARAH ROBINSON  
ATTORNEY OF THE HIGH COURT OF SOUTH AFRICA  
COMMISSIONER OF OATHS  
4th Floor, No.3 Melrose Boulevard  
Melrose Arch, Johannesburg, RSA

  
M. A.  
mt. J.



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

**NOTICE IN TERMS OF RULE 3.3**

**TO : FORMER PRESIDENT JACOB GEDLEYIHLEKISA ZUMA**  
**C/O : LUGISANI MANTSHA ATTORNEYS**  
**EMAIL : [dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)**

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

- 1** The Commission’s Legal Team intends to present the evidence of **Mr Popo Simon Molefe** (“**Mr Molefe**”) at its hearing held at 4<sup>th</sup> Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The presentation of Mr Molefe’s evidence will commence on a date to be confirmed at a later stage. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2** The relevant portions of the statement of Mr Molefe which implicate or may implicate you, are annexed hereto marked “A”. Your attention is drawn to **paragraphs 74 to 92** of the statement.
- 3** Due to the fact that you are implicated or may be implicated by the evidence of Mr Molefe, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr Molefe will be uploaded on the

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Commission's website ([www.sastatecapture.org.za](http://www.sastatecapture.org.za)) as soon as he concludes his evidence. The transcript will be uploaded daily.

4 If you wish to:

4.1 give evidence yourself;

4.2 call any witness to give evidence on your behalf; or

4.3 cross-examine the witness

then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.

5 An application referred to in paragraph 4 above must be submitted to the Secretary of the Commission. The application must be submitted with an affidavit from you in which you respond to the witness's statement insofar as it implicates you. The affidavit must identify what parts of the witness's statement are disputed or denied and the grounds on which they are disputed or denied.

6 If you wish to apply to cross-examine the witness, your application must follow the requirements of Rule 11.3. In other words, it must be a substantive application on affidavit accompanied by a notice of motion.

7 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

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

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

8.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in



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Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.

- 9 The witness's statement provided to you is confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.
- 10 Any response or affidavit in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Mr Warren Redcliffe at secretary@commissionsc.org.za.

**DATED AT PARKTOWN ON THIS 21<sup>st</sup> DAY OF FEBRUARY 2020**



---

**MS K B SHABALALA**  
Acting Secretary  
Judicial Commission of Inquiry into Allegations  
of State Capture, Corruption and Fraud  
in the Public Sector including Organs of State



M.A.

IN THE COMMISSION OF ENQUIRY INTO STATE CAPTURE:

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**AFFIDAVIT**

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I, the undersigned,

**POPO SIMON MOLEFE**

do hereby make oath and state as follows: -

**Introduction**

1. I am an adult businessman and currently chairperson of the Board of Transnet SOC. During the period 1 August 2014 to 30 August 2017, I served as the Chairperson of the Board for the Passenger Rail Agency of South Africa ("PRASA").
2. The facts set out herein affidavit are within my personal knowledge and belief, unless stated otherwise or the context makes the contrary apparent, and they 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, I do so on the advice received in the preparation of the affidavit.
4. I begin by noting that I have already given evidence to this Commission: in my capacity as Chairperson of the Board of Transnet – on 7 May 2019.

*PSM*

MM

Page 1 | 30

*[Signature]*

*M-A*

without following proper disciplinary procedures: [p 375, para 8.25.1]; and that the conduct of habitually suspending employees contravened PRASA's disciplinary code: [p 376, para 8.25.4] and constitutes maladministration and improper conduct: [p 377, 8.25.7].

70. The PP also noted that there was a culture of poor information management or hiding of information that could provide evidence of maladministration: [p 382, para 8.33.2].
71. Among the specific remedial action the PP said should be taken is the following. The Board must: take cognizance of the findings of maladministration and improper conduct by Mr Montana and other functionaries [p 383, para 9.2.1]; report to the National Treasury and the Auditor-General particulars of the alleged financial misconduct and the steps it took; and support National Treasury in conducting a forensic investigation into all PRASA contracts above R10 million from 2012 and then take appropriate measures to address the findings: [p 384, para 9.2.5].
72. Given all of these concerns, which had been aired in the public space, one would have expected that the Board's decision to accept Mr Montana's resignation would receive support from those who cared about PRASA, its employees, the commuters it serves and the public good.
73. Sadly, as I note in the rest of this affidavit, not only was there no support for the Board when it began its clean-up, but in fact it was vilified and eventually effectively disbanded.

#### **Former President Zuma's attempt to intervene**

74. After the Board had accepted Mr Montana's resignation, he publicly announced that if the Minister and the Board wanted him back he would be available to resume his responsibilities as CEO. The Board, however, showed no interest in having him back.

*Handwritten signature*

*M.A.*

*MM*

75. Then, quite unexpectedly, in early August 2015 then President Zuma and Minister Radebe, who was then the Minister in the Presidency responsible for Planning, Monitoring and Evaluation, called a meeting at the Presidential Guest House in Pretoria. Minister Peters was invited to the meeting, along with Mr Montana and me. The meeting took place on 20 August 2015. It was initially meant to commence at 15:00, but only started after 18:00 and ended after 02:00 the following morning. I was not given any reasons for the delayed start of the meeting and was merely requested to wait.
76. Just before the Minister and I were called into the meeting room, I was informed by one of the security officials that Mr Montana and Mr Roy Moodley had just left the meeting room from the opposite side. I was alarmed, as it appeared that Mr Montana and Mr Moodley had been granted an audience, or had held a meeting with the President, prior to our meeting. As the Chairperson of the Board, I found it very strange that they would be consulted before the President met with me.
77. Minister Jeff Radebe started off by giving an account of how he had attempted to get hold of me to meet with a President Zuma. He claimed that his secretary informed my personal assistant that President Zuma wanted to meet with me. He indicated that his secretary was told that I was in Knysna on holiday playing golf and that I would see the President when I returned. The Minister appeared to be driving the message that the Chairman of PRASA (me) did not have respect for the President of the Republic of South Africa.
78. What Minister Radebe had omitted to say was that although he was the Minister communicating what purported to be an official message he did so by means of a private Gmail email account. My personal assistant had requested his secretary to communicate via an official Government email address in order for the meeting to be

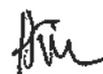


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correctly diarised. This was done at my insistence, as I wanted any meeting request with the President to be arranged through official channels.

79. Minister Radebe further stated that he had read in various media reports of on-going conflict between myself and Mr Montana. As such he was concerned about the potential impact of this conflict and possible escalation thereof.
80. Minister Radebe indicated that he had suggested to Minister Dipuo Peters that both Mr Montana and I be asked to meet with them, as the President was also concerned about the public spat between the two of us.
81. Minister Dipuo Peters responded by indicating that she had asked Minister Radebe appeal to Mr Montana to stop making public statements which brought PRASA into disrepute, and to accept that he was no longer the Group Chief Executive Officer, as the Board had accepted his resignation. Minister Peters explained that said she had made the request to Minister Radebe as he shared a close relationship with Montana.
82. At that point Minister Peters questioned Minister Radebe on the leaked "PRASA in Turmoil" report and stated that she could not understand why he had kept it to himself and did not share it with her, given that it concerned a State entity that she was responsible for. Minister Radebe, however, denied having been possession of the report.
83. To her credit Minister Peters stated that Mr Montana was fighting the BOC for discharging their fiduciary duties by investigating malfeasance in PRASA . She insisted that Board was obliged to investigate and that such an investigation should not be taken as personal by Mr Montana.
84. At that point I asked President Zuma to explain what protocol he was applying when he invited the Minister and I separately. I stated to him that as I was reporting to the



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- Minister, the correct protocol was one of inviting the Minister and the Minister could then invite me, if she felt it necessary.
85. President Zuma was visibly irritated by my question. I told him that it was improper to invite the Minister and her report as if they had the same status in Government. Still irritated he said to me "I appointed her, I can invite her and whomever I want to invite. " At that point I said, "yes Mr President the prerogative is yours."
86. I was shocked when the President said "I have invited that boy, Lucky Montana." He then asked Minister Radebe call Mr Montana into the meeting.
87. President Zuma stated that whilst he was on state visit to the People's Republic of China, he had read about the public spat between Mr Montana and I. He said that it was embarrassing to the ANC, especially since both Mr Montana I were members of the ANC.
88. President Zuma stated that Mr Montana was very knowledgeable about commuter rail transportation and he should not be lost to the country. He said that we should sort out our differences and bring Montana back as the Group Chief Executive Officer of PRASA.
89. The President indicated that senior members of the ANC were concerned that Mr Montana and I had been making unpleasant statements about and against each other in the media.
90. At this juncture I wish to point out that, whilst Minister Peters and I went into the meeting not knowing what the agenda was, it appeared that Mr Montana had been briefed before-hand, as he proceeded to present a long report in which he attacked both Minister Peters and me.
91. He also spoke disparagingly about the Board. I did not respond to his utterances as I considered them irrelevant. As Mr Montana had threatened to litigate against the Board

(although he never did follow through with this threat), I told the meeting that I would reply in court should his threat to litigate materialise. I chose to rather to focus on the termination of Mr Montana's service and the correctness of the Board's approach. After Mr Montana's presentation and the comments from Mr Zuma, it became clear to me that Mr Zuma wanted Mr Montana reinstated as PRASA's CEO.

92. I then invited Mr Zuma to address the Board and explain why he had a problem with its decision to release Mr Montana as the CEO, after it had accepted his resignation letter. Mr Zuma did not appear to take kindly to my invitation and the fact that I was not prepared to simply reinstate Mr Montana as the CEO. At that point, about 02:00 the following morning, the meeting ended because Mr Zuma fell asleep whilst we were talking. This was the last meeting I had with Mr Zuma. I left the meeting deeply concerned that the President of the country was personally interfering in the operations of PRASA, when the issues at hand clearly fell within the purview of the Board.

#### **The dismissal of the Board**

93. After Mr Montana's departure from PRASA, the Board sought to appoint a new CEO and embarked on a rigorous recruitment and interviewing process. However, Minister Peters frustrated the Board's attempts to appoint a CEO. Instead, she insisted that Mr Collins Letsoalo, who was at the time the Chief Financial Officer of the Department of Transport, be seconded to the post of CEO with effect from 1 July 2016, despite the initial opposition by the Board to his secondment.
94. Mr Letsoalo appeared to have been instructed to stop or significantly curtail the Werksmans investigation: he insisted that it is he who should take charge of the investigations. This soon led to tensions with the Werksmans investigation team.




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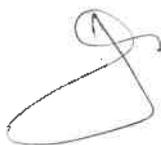
116. In light of the foregoing, I am of the view that as our claws sunk deeper into the roots of corruption, the Board could not rely on the Portfolio Committee for support. That Committee did not take its responsibility of oversight in respect public assets seriously. It appeared to me that they would rather turn a blind eye to malfeasance and protect the culprits, than work zealously in defence of the public purse. I was never able to fully comprehend why public representatives would give scant or no attention at all to the matters that affected the interest of the public that they purported to represent.

### Conclusion

117. As I have detailed above, PRASA was plagued by corruption. Whilst Mr Montana was there it was one of the captured state institutions. His reign was so long, that he has had the opportunity to install many Daniel Mtshkulus. I fear that they still wield weighty influence at PRASA, and are still probably implementing Mr Montana's plans.
118. The failure of successive Ministers to appoint a permanent and independent Board with people determined to continue the clean-up operation we began is allowing this to happen.
119. I hope that the Commission will call the Administrator and require him to account for the present position.

  
Popo Simon Molefe

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 in Johannesburg the 17 day of February 2020, and that the Regulations contained



M.A.

RM



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17 Empire Road,  
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2193  
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**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

**NOTICE IN TERMS OF RULE 3.3**

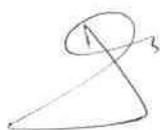
**TO : FORMER PRESIDENT JACOB G ZUMA**  
**C/O : MABUZA ATTORNEYS**  
**E-MAIL : [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)**

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

- 1 The Commission’s Legal Team intends to present the evidence of **MS BONGIWE EVES DUBE (“Ms Dube”)** at its hearing held at the Old Council Chamber of the Municipality of the City of Johannesburg, 158 Civic Boulevard Braamfontein, Johannesburg with reference to a statement that she signed. The presentation of Ms Dube’s evidence will commence on **MONDAY, 20 JULY 2020 at 10H00** or on any other dates and at any other time that the Chairperson may determine. In the event of a change of date, it will be announced on the Commission’s website ([www.sastatecapture.org.za](http://www.sastatecapture.org.za)) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 The allegations set out in the evidence of Ms Dube implicate or may implicate you in wrongdoing in that it is alleged in context *inter alia* that:

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- 2.1 You improperly or unduly benefitted from the catering for your birthday party held in Pretoria which was paid for by African Global Operations (Pty) Ltd, formerly known as Bosasa.
- 3 A copy of the entire statement of Ms Dube which implicates or may implicate you in the above allegations is annexed hereto marked "A". Your attention is drawn to **paragraph 5.1 read with 5.4** of the statement.
- 4 Due to the fact that you are implicated or may be implicated by the evidence of Ms Dube, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Ms Dube will be uploaded on the Commission's website as soon as her evidence is presented to completion. The transcript will be uploaded daily.
- 5 If you wish to:
- 5.1 give evidence yourself;
- 5.2 call any witness to give evidence on your behalf; or
- 5.3 cross-examine the witness
- then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.
- 6 An application referred to in paragraph 5 above must be submitted to the Secretary of the Commission. The application must be submitted with an affidavit from you in which you respond to the witness's statement insofar as it implicates you. The affidavit must identify what parts of the witness's statement are disputed or denied and the grounds on which they are disputed or denied.
- 7 If you wish to apply to cross-examine the witness, your application must follow the requirements of Rule 11.3. In other words, it must be a substantive application on affidavit accompanied by a notice of motion.
- 8 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out




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

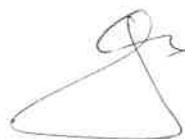
- 9 Please take note that even if you do not make an application under Rule 3.4:
- 9.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and
- 9.2 in terms of Regulation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

**DATED AT PARKTOWN ON THIS 8<sup>th</sup> DAY OF JULY 2020**




---

**MS K B SHABALALA**  
**Acting Secretary**  
**Judicial Commission of Inquiry into Allegations**  
**of State Capture, Corruption and Fraud**  
**in the Public Sector including Organs of State**



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**AFFIDAVIT**

I the undersigned,

**BONGIWE EVES DUBE**

do hereby state under oath:

1.

I am an adult female residing in the Gauteng area.

2.

All facts stated herein are, unless the context indicates otherwise, within my personal knowledge and are to the best of my belief both true and correct.

3.

I was previously employed by Bosasa as a "Unit Leader" (which is essentially a manager" in the kitchens. My work included oversight of staff, working out the specifications for diets, the preparation of food with the chefs and the ordering and receiving of stock.

My history of employment is as follows:

- I joined Bosasa in 2013 and started work at the Johannesburg prison for approximately two months;
- I then moved to the Lindela Reparations Centre ("Lindela") where I worked as a Manager for approximately two years;
- I then moved to the Krugersdorp Prison where I worked for approximately one year, where-after I went back to Lindela for six months; and finally
- I moved to Bosasa's Head Office in late 2016 where I remained until April 2018.

4.

At the Bosasa Head Office, I was running the diner and the kitchen. This was for the staff, guests, meetings and people who attended training. We also provided catering to the training rooms when necessary.

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Mr Allister Esua ("Allister") was in charge at Head Office and I was 2<sup>nd</sup>-in-charge. I took over from Katherine Mathabathe ("Catherine") when she moved to Lindela.

5.

### 5.1

#### Deliveries

With regards to deliveries of food, I would receive instructions from either Papa Leshabane or Allister. It is my understanding that in the instances where Allister gave me instructions, he would have received the instructions from someone higher up at Bosasa.

### 5.2

#### Christmas

Over Christmas time in December, food would be delivered to Nomvula Mokonyane. I know this as in the first December I was at Head Office in 2016, I was on my way to fetch an order from a Butchery called "Food Boys" in Strydom Park, when one of the butchery staff phoned me and asked me about a specific order. They asked me if I knew about it as it was normally dealt with by Catherine every December.

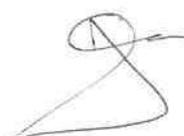
The staff I dealt with at the Butchery were "Precious, Happy and Laura". (Our note - Food Boys ...0861 233 663) I phoned Katherine and asked her about the order, whereupon she said I must not deal with the order as that was for Nomvula Mokonyane and she would deal with it. It was a large order of meat, approximately R17 000.00 worth and the butchery staff informed me that the order was already in place.

The same occurred the following year in December 2017 as this was a standing order. Thomas was the driver at Bosasa at the time and he would have made the deliveries. I did not deal with the delivery of any drinks and alcohol to Nomvula Mokonyane.

### 5.3

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#### Other deliveries

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Other deliveries I recall were donations made to the Baragwanath Hospital, the El debar church (I don't know where this church is situated, but I heard that a lady called Cynthia Oliphant and that to join the church you had to pay an amount of R9000.00.) Ms Thandi Makoko, one of the directors of Bosasa's Youth Centre was responsible for organising the donations for the church) and various schools such as Masupatsila primary school in Kagiso. On other occasions we would prepare an order on instructions and keep it, where-after the driver would come and collect it. We would not know where the order was delivered to.

#### 5.4

##### **Birthdays**

I recall that we did the catering for the birthday of former President Zuma in Pretoria and some of the staff went there to help. The food was prepared in Pretoria and we supplied the drinks and the cake. I am not sure if it was his house or not, but it was somewhere private. That was on the instruction of Allister

#### 5.5

##### **Politicians**

There were a lot of politicians that came to the Bosasa Head Office and there was a private room for the ANC political party where individuals used to come and have meetings and also prepare for campaigns. We were involved in the catering for these individuals when they were having their meetings.

I recall seeing various politicians at the premises, including Fikile Mbalula, Nomvula Mokonyane and Gwede Mantashe during the busy election period.

#### 6.

##### **Destruction of documents**

At a certain time when Mr Louis Passano took over the Accounts Department there were a lot of documents burnt at the premises, presumably on his instruction. These were documents from the accounts department and Mr Passano said that they were changing

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offices and changing systems. I did not know why this was necessary, but I saw the documents being burnt.

7.

#### Dismissal

I came to Bosasa through Mr Angelo Agrizzi ("Mr Agrizzi") and in 2018, it was common knowledge that Bosasa's management wanted to get rid of all people relating to Mr Agrizzi. This was because there had been a falling-out between them.

Allister and other staff linked to Mr Agrizzi were removed by early 2018. In this period one of the staff said that I was receiving money from one of the guests and had seen me on the CCTV camera. I informed Bosasa's management that I had received the money for my Avon products I was selling and the person was delivering the money to me. I was however then dismissed for failing to declare my Avon business, which I did in my spare time.

8

I know and understand the contents of this statement.

I have no objection to taking the prescribed oath.

I consider the oath to be binding on my conscience.

B. E. DUBE.

Signed

Date: 2020 02-04

I certify that the deponent has acknowledged that she knows and understand the contents of this declaration, which was sworn to before me, and the deponent's signature was placed thereon in my presence at KRUGERSDORP on the 04 day of FEBRUARY 2019.

[Signature]  
Signature of Commissioner of Oaths

02-04

[Signature] M.A.



2<sup>nd</sup> floor, Hillside House  
17 Empire Road,  
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Tel (International): +27 (10) 214-0651  
Tel (Tollfree): 0800 222 097  
Email: [inquiries@sastatecapture.org.za](mailto:inquiries@sastatecapture.org.za)  
Web: [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

**NOTICE IN TERMS OF RULE 3.3**

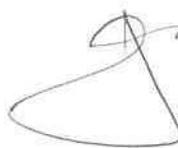
**TO : FORMER PRESIDENT JACOB GEDLEYIHLEKISA ZUMA**  
**C/O : LUGISANI MANTSHA ATTORNEYS**  
**EMAIL : [dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)**

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

- 1 The Commission’s Legal Team intends to present the evidence of a witness at its hearing held at 4<sup>th</sup> Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The presentation of the witness’s evidence will commence on **Thursday, 13 February 2020**, or so soon thereafter as he may be heard. The witness has made an application to the Chairperson not to be identified during the evidence and that application is still pending. This notice has therefore been prepared on the basis that the witness’s identity not be disclosed until a ruling from the Chairperson is given.
- 2 In the event of a change of date of the hearing, it will be announced on the Commission’s website ([www.sastatecapture.org.za](http://www.sastatecapture.org.za)) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 3 A confidential version of the witness’s affidavit, which implicates or may implicate you, is annexed hereto marked “A”.

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- 4 The witness's affidavit implicates or may implicate you in the following respects:
- 4.1 You were involved in the diversion of the proper mandate of the Special Operations Unit within the State Security Service.
- 4.2 The Unit would provide parallel technical surveillance counter measures for you.
- (see paragraphs 4.1 to 4.4 of the affidavit)
- 5 Due to the fact that you are implicated or may be implicated by the evidence of the witness, you are entitled to attend the hearing at which that evidence will be presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full affidavit of the witness will be uploaded on the Commission's website after it has been presented at the hearing. The transcript will be uploaded daily.
- 6 If you wish to:
- 6.1 give evidence yourself;
- 6.2 call any witness to give evidence on your behalf; or
- 6.3 cross-examine the witness
- then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.
- 7 An application referred to in paragraph 6 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the affidavit insofar as it implicates you. The statement must identify what parts of the affidavit are disputed or denied and the grounds on which they are disputed or denied.
- 8 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.



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

**DATED AT PARKTOWN ON THIS 31<sup>st</sup> DAY OF JANUARY 2020**



---

**MS K B SHABALALA**  
**Acting Secretary**  
**Judicial Commission of Inquiry into Allegations**  
**of State Capture, Corruption and Fraud**  
**in the Public Sector including Organs of State**



3  
M-A.

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

**AFFIDAVIT**

I, the undersigned;

[REDACTED]

Do hereby declare under oath and state that:

1.

1.1. I am an adult male [REDACTED]  
[REDACTED]  
[REDACTED]

1.2. I confirm that the averments contained in this affidavit fall within my personal knowledge and are to the best of my belief both true and correct; except

1.2.1. Where the converse is expressly stated



M. A.  
-R [initials]

- 1.2.2. Where the converse appears from the context in which the statement of facts are made.

## OVERVIEW AND PURPOSE OF THIS AFFIDAVIT

### 2.

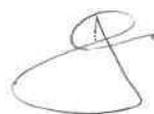
- 2.1. On the 8<sup>th</sup> of November 2018, I received from the office of the Acting Director General of the State Security Agency of the Republic of South Africa a request for information for the purposes of the Commission made by the Acting Secretary of the Commission, dated 1<sup>st</sup> November 2019 (*the RFI*).
- 2.2. In the RFI, the Acting Director General was requested to address the following matters:
- 2.2.1. The circumstances surrounding the provision of protection services by the State Security Agency ("the Agency") to Ms Duduzile Myeni ("Myeni") and to whether certain individuals identified in the CCTV footage obtained from the South African Airways dated 4 September 2019, to wit Messrs Zaza Ngema or Zama and /or Mr Mpendulo were employed by the agency and/or connected to the agency.

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- 2.2.2. Secondly, to provide and explain the role played by Ms Nokunqoba Dlamini at the office of Ms Dudu Myeni at the South African Airways and the purpose of such deployment.
- 2.2.3. In addition thereto to provide the identities of the person (if known), who provided protection services to Ms Myeni during her tenure as the chairperson of the South African Airways.
- 2.3. He was also requested to deal with the vetting process conducted by the agency at the SAA in particular:
- 2.3.1. The scope of the project and the reasons it was limited to the executive management and support staff;
- 2.3.2. The circumstances surrounding the vetting of the SAA staff;
- 2.3.3. Whether the pilots employed by the SAA were vetted? if not, the reasons why they were not vetted;

 M.A.  


- 2.3.4. Whether the members of the Board of the SAA were vetted during this exercise? If not, to provide the reasons why not. If so, whether any of the Board members at the time possessed security clearance certificates;
- 2.3.5. The nature of the meetings between the officials of the agency held with Ms Myeni between the period of January and February 2016 and the points of discussion and at whose instances these meetings were held
- 2.3.6. Whether other state owned entities were vetted? If so, to provide the dates of when such vetting took place and who in these SOE's was vetted;
- 2.3.7 To provide the type of questions posed to management during the vetting process at the SAA and the name of the person who formulated the questions?
- 2.3.8. In addition to clarify whether the similar questions were put to all officials of other state owned entities



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when they were determined. If not, to provide the criteria that determines the questions to be asked to the officials when vetted.

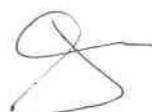
2.4. Pursuant to the request for information referred to above, I was served with a summons to appear before the Commission on 13<sup>th</sup> February 2020 at 10h00, in order to deal with the following matters:

2.4.1. The establishment of a special operations unit within the State Security Agency;

2.4.2. The circumstances giving rise to the engagement of the so-called "independent contractors" by the Special Operations Unit;

2.4.3. The role played by the agency and/or the Special Operations Unit in the deployment of the "independent contractors", to provide protection services to Ms Myeni;

2.4.4. The posting of SSA members at the office of Ms Myeni at the SAA;



M. A.



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Page 6

2.4.5. The report and the findings of the high level review panel of the SSA dated December 2018 including the findings thereof that the agents of the SSA were assigned to provide protection services to Ms Myeni and;

2.4.6. Any other matters connected therewith

2.5. This affidavit is deposed to as my statement to the Commission in order to address the matters outlined in the requested information and the summons dated 13<sup>th</sup> January 2020.

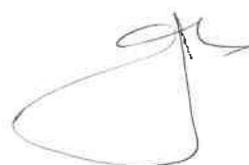
2.6. I interpose to mention to the Commission that I shall in the course of this affidavit not address the circumstances surrounding the deployment of members of the agency including Ms Dlamini at the offices of Ms Myeni and the purpose of such deployment as well as any matters surrounding the vetting conducted at the SAA, including the questions posed in paragraph 5 of the request for information.



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- 2.7. I am advised, that Ms Dlamini has also received summons to appear before the Commission in order to address the circumstances dealing with her deployment and the vetting process.
- 2.8. Therefore, to the extent that these issues are not addressed in this affidavit, I refer the Commission to the affidavit deposed to by Ms Dlamini.
- 2.9. In light of the foregoing, I shall in the course of this affidavit address matters in the following sequence:
- 2.9.1. Firstly, I deal with the establishment of the Special Operations Unit as well as its mandate
- 2.9.2. Secondly, I deal with the circumstances giving rise to the change of the unit's mandate from its original mandate, to that of providing protection services to, amongst others, the former President of the Republic of South Africa, the Honourable Mr JG Zuma, Ms Dudu Myeni and other individuals identified in the high level review panel report dated December 2018, through



M. A.

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the engagement or deployment of independent contractors.

- 2.9.3. Thirdly, I deal with the findings by the review panel that the agents of the agency were assigned to Ms Myeni.

### THE ESTABLISHMENT AND THE MANDATE OF THE CHIEF DIRECTORATE

#### SPECIAL OPERATIONS

### 3.

- 3.1. The Chief Directorate: Special Operations was established as a unit within the agency in 2006. The mandate of the unit was to undertake those projects involving state security which are of a serious nature to an extent that they cannot be assigned to a Provincial or any other structure in South Africa. These include deep undercover operations aimed at serious targets or issues which are of relevance to state security
- 3.2. In order to undertake this mandate, the members of the unit receive specialised training and must possess high level of competency.



M-A



- 3.3. In addition to the foregoing and in undertaking the operations, the members of the unit would do so under cover.
- 3.4. The unit continued since its inception to carry out its original mandate until its mandate was, for lack of better work, diverted or changed in 2012 to be that of a parallel protection service for the former President Mr JG Zuma. I deal fully with the circumstances around the diversion and how such diversion occurred below.

#### THE DIVERSION OF THE UNIT'S MANDATE

#### 4

- 4.1. During the period of 2012 Mr Thulani Dlomo was appointed as the General Manger for the Chief Directorate Special Operations.
- 4.2. Immediately after his appointment, Mr Dlomo changed the mandate of the unit to that of a parallel protection services of the former President, Mr JG Zuma. To that extent, Mr Dlomo was not reporting to the relevant authorities within the agency insofar as the operations of the unit were



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concerned, but he would say that he reports directly to the former President, Mr JG Zuma.

- 4.3. In order to divert the mandate of the unit to the protection of the former President, Mr Dlomo recruited agents mainly from KwaZulu-Natal. From the information I could gather there were about 200 agents who were recruited and trained in covert operations as well as VIP protection. These agents were trained in various countries.
- 4.4. After their training, the agents were deployed parallel to the President's protection team and would amongst others conduct parallel technical surveillance counter measures for the former President, a function normally performed by another unit within the Agency.
- 4.5. In addition to the running of a parallel technical surveillance counter measures, the unit under Dlomo's leadership also ran parallel functions linked to the following Departments;

4.5.1 The South African Military Health Services,

4.5.2. The South African Police Services,



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4.5.3. The South African Defence Force ; and

4.5.4 The South African Air Force

- 4.6. I must also mention that none of the agents who carried out the functions as outlined above, were members of the agency. This entailed that there was no paper trail linking them to the agency. As a result, the agency is unable to provide the Commission with the full names and particulars of each of these agents.

#### **THE PROVISION OF SECURITY PROTECTION SERVICES TO MS MYENI**

5.

- 5.1 The provision of security protection to Ms Myeni coincided with the period when her leadership at the South African Airways came under scrutiny. I am however unable to state with certainty when exactly.
- 5.2. I must mention that Ms Myeni, did not qualify for security protection from the Agency. Should there be a security threat around Ms Myeni, the SAPS would do a threat



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assessment and thereafter, provide her with the necessary protection, should it be necessary.

- 5.3. Insofar as I am aware, prior to the provision of protection services, to Ms Myeni, there was no threat assessment conducted by the SAPS or the agency.
- 5.4. The protection to Ms Myeni was provided through the agents, recruited by Mr Dlomo as outlined earlier in this affidavit.
- 5.5. I pause to mention that I have been provided with photographs taken from the CCTV footage at the SAA dated 3 July 2015 and requested to identify the individuals depicted in the photographs.
- 5.6. To the extent that I was able to, I could recognise a certain Mr Zama Mtolo who, to the best of my knowledge is still employed by the agency. I am however unable to provide details surrounding Mr Mtolo's deployment to the SAA, let alone to provide V P protection to Ms Myeni
- 5.7 I also find it important to mention that given the absence of any paper trail, and/or document, it is difficult for the



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agency to conduct the investigation into wrongdoings. What I can however mention is that there are currently two cases which have been opened with the Director of Priority Crimes and Investigations.

#### THE REPORT AND THE FINDINGS OF THE HIGH LEVEL REVIEW PANEL

6

- 6.1 From the onset I must mention that I was not part of the High Level Review Panel, I was however requested to appear before the panel on a different matter.
- 6.2 What I can confirm are the findings by the panel that the unit was diverted to serve as both the parallel protection services and the intelligence gathering unit for the former President and those around him.

#### CONCLUSION

7

- 7.1 In conclusion I wish to mention to the Commission that, as mentioned earlier, the information provided herein is based



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on what I could gather during the course of the investigation as well as from the High Level Review Panel's report.

- 7.2. Notwithstanding the foregoing, I however believe that the information provided above, will assist the Commission in its investigation.



DEPONENT

I hereby certify that the deponent has acknowledged that he/~~she~~ knows and understands the contents of this affidavit, which was signed and sworn before me at Pretoria on this the 28 day of January 2020, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and ~~G~~overnment Notice No R1648 of 19 August 1977, as amended, having been complied with.

Mogane

COMMISSIONER OF OATHS

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M.A.



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

**NOTICE IN TERMS OF RULE 3.3**

**TO : FORMER PRESIDENT JACOB GEDLEYIHLEKISA ZUMA**  
**C/O : LUGISANI MANTSHA ATTORNEYS**  
**EMAIL : [dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)**

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

- 1** The Commission’s Legal Team intends to present the evidence of Mr Brent Simons (“Mr Simons”) at its hearing held at 4<sup>th</sup> Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The presentation of Mr Simons’ evidence will commence on **26 August 2019**, or so soon thereafter as his evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website ([www.sastatecapture.org.za](http://www.sastatecapture.org.za)) and in the media.
- 2** The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 3** The allegations set out in the evidence of Mr Simons implicate or may implicate you in, *inter alia*, allegedly participating in various acts of corruption, bribery, fraud, money laundering and/or tax evasion.

4 The relevant portions of the statement of Mr Simons which implicate or may implicate you in the above allegations is annexed hereto marked "A". Your attention is drawn to paragraphs 4, 8 to 13, 16, 24 to 28 and 56 to 58 of his statement.

5 In summary it is averred that:

5.1 In 2017, Mr Simons submitted an affidavit to the Secretary of Parliament and the Speaker of the National Assembly to refute your denial that you had used your position to secure government contracts for your family members.

5.2 This was because he was aware that on 14 March 2014, at the launch of the Solomon Mahlangu Scholarship Fund by you in Sandton, he was standing next to Minister Chabane and personally witnessed you introducing Mr Mqondisi Zuma ("Mr Mqondisi") to Minister Chabane.

5.3 At the time, Mr Mqondisi was standing together with a group of people, who appeared to be business associates of Mr Mqondisi, including Mr Busa Zuma, who Mr Mqondisi referred to as his "brother," and Mr James Zwane.

5.4 You told Minister Chabane that Mr Mqondisi was a member of your family and asked Minister Chabane to "please assist" Mr Mqondisi and his associates in furthering their various businesses with government.

5.5 Mr Mqondisi is a young man who referred to Mr Khulubuse Zuma (your nephew) as his "father". On Mr Mqondisi's facebook page, there are various pictures of Mr Mqondisi and Mr Busa Zuma together with Mr Khulubuse Zuma. Mr Simons accordingly believes that both Mr Mqondisi and Mr Busa Zuma are part of your extended family.

5.6 Following the introduction, Minister Chabane directed Mr Mqondisi and his business associates to Mr Simons, informing them that he would be their main point of contact with him (Minister Chabane).

5.7 Pursuant to these instructions, Mr Simons referred Mr Mqondisi and his business associates to various government officials and also attended various meetings with Mr Mqondisi to determine what it was that they needed. From these meetings, it became apparent that their objective was to secure funds and



contracts from the National Youth Development Agency (“NYDA”), the Government Communications and Information System Department (“GCIS”) and the Department of Public Service and Administration (“DPSA”).

- 5.8 The deals they were interested in related to:
- 5.8.1 GCIS advertising contracts and the purchasing (by GCIS) of their Public Information Terminals;
  - 5.8.2 obtaining a single service provider contract to supply airtime and cellular phone deals to the DPSA and all other government departments;
  - 5.8.3 a multi-million rand advertising contract with GEMS (the Government medical aid scheme); and
  - 5.8.4 various NYDA contracts. The NYDA is a South African youth development agency, which was reporting to the Minister in the Presidency at the time.
- 5.9 On 29 May 2014, Mr Simons attended a meeting at Sandton with Mr Mqondisi and Mr Busa Zuma. Mr Mqondisi informed him that he wished to:
- 5.9.1 secure a contract with GCIS to place one-stop Public Information Terminal machines at all Thusong Service Centres throughout the country (Thusong Service Centres are the one-stop service delivery centres for Government Departments); and
  - 5.9.2 secure advertising space for advertisements by Government Departments on these terminals.
- 5.10 On 30 September 2014 and 6 October 2014, Mr Simons attended meetings with Mr Mqondisi, Mr Zwane and several other business associates of theirs to discuss “the concept of offering discounted cell phone packages to government employees”. The objective of this proposal was to make them the major service provider for cell phone and airtime contracts within National Government.



Mr. A .

- 5.11 The group wanted to pursue this venture utilising a Zuma family linked youth Empowerment Company in which Mr Mqondisi had an interest.
- 5.12 On one occasion in 2014, Mr Simons met a female official from GEMS in Pretoria from the communications department. The purpose of the meeting was to provide her with a proposal given to Mr Simons by Mr Mqondisi to enter into a communications contract with GEMS to the value of approximately R300 million.
- 5.13 The official became very nervous as she sensed that it would be required of her that she sanction the proposed contract in view of Mr Mqondisi's association with you.
- 5.14 Mr Simons was threatened by Mr Mqondisi and Mr Khulubuse for the lack of progress made in securing government contracts for them.
- 5.15 Minister Chabane confided in Mr Simons about the removal of Mr Themba Maseko from GCIS on your instructions.
- 5.16 Mr Simons was in Australia with Minister Chabane when he received a telephone call to say that the Public Protector was going to release a report on the Nkandla investigation relating to the expenses/upgrades to your home at Nkandla.
- 5.17 Minister Chabane penned a short response on your behalf advising that you would not respond to the report in detail and that, if the Public Protector recommended that certain Ministers be reprimanded, the Presidency would comply and reprimand them.
- 5.18 Minister Chabane also advised you that if there was any amount recommended to be paid back by you, he would raise funds to enable him to do so. This note was typed on the response to you on the statement to be issued, placed in brackets and clearly marked "not for publication".
- 5.19 However, you failed to heed this advice and caused a statement to be issued by the Presidency and GCIS attacking the Public Protector.



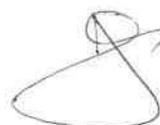
M. A.

- 5.20 Minister Chabane then told Mr Simons that when Themba Maseko was the Director-General in GCIS, the department was being well managed. However, he had been personally phoned by you and instructed to remove Mr Maseko from his position and replace him with Mr Jimmy Manyi (“**Mr Manyi**”).
- 5.21 Minister Chabane disagreed with this because of the problems caused by him at the Department of Labour after it had been publicised that Mr Manyi had attempted to secure contracts for his private company, but you refused to reconsider this appointment.
- 5.22 As a result of your instruction, Mr Maseko was transferred to the DPSA in early 2011.
- 5.23 When Mr Manyi’ term of office in around October / November 2013, Minister Chabane refused to renew or extend his term.
- 5.24 Minister Chabane informed Mr Simons personally that you were very angry with him about this.
- 5.25 Shortly before the April 2014 elections, Mr Simons drafted a letter for Minister Chabane for your attention informing him that Mr Manyi was to be removed from the Media Development and Diversity Agency Board as he was occupying a position reserved for a GCIS representative, whilst he no longer worked for GCIS.
- 5.26 Minister Steve Tshwete’s son, Mr Mayihlome Tshwete (“**Mr M Tshwete**”) went with Minister Gigaba when he went to the Department of Home Affairs. Minister Gigaba wanted to appoint him as the DDG of Communications in that Department.
- 5.27 The DPSA, however, did not support his appointment, as he did not have the required experience and qualifications for the post and submitted a memorandum to Cabinet to this effect indicating that he did not qualify to be appointed.



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- 5.28 After the Cabinet meeting to discuss Mr M Tshwete's appointment, Minister Chabane informed Mr Simons that the memorandum had been overruled and Mr M Tshwete was subsequently appointed.
- 5.29 The implication is that this was at your instance.
- 5.30 Mr Simons circulated a facebook post in or around June 2015 in which you were criticized. As a result of this, he was posted to an office with no responsibilities and disciplinary charges were drawn against him. He was told that this was because of his treacherous behaviour.
- 6 Due to the fact that you are implicated or may be implicated by the evidence of Mr Simons, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr Simons will be uploaded on the Commission's website as soon as he concludes his evidence. The transcript will be uploaded daily.
- 7 If you wish to:
- 7.1 give evidence yourself;
- 7.2 call any witness to give evidence on your behalf; or
- 7.3 cross-examine the witness
- then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.
- 8 An application referred to in paragraph 7 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness' statement insofar as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.
- 9 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out



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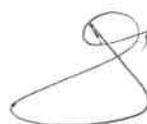
- above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 10 Please take note that even if you do not make an application under Rule 3.4:
- 10.1 in terms of Rule 3.10, the Chairperson may, at any time, direct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

**DATED AT PARKTOWN ON THIS 16<sup>th</sup> DAY OF AUGUST 2019**




---

**MS K B SHABALALA**  
**Acting Secretary**  
**Judicial Commission of Inquiry into Allegations**



M. A.



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

**NOTICE IN TERMS OF RULE 3.3**

**TO : THE FORMER PRESIDENT, MR JACOB ZUMA**  
**C/O : LUGISANI MANTASHA ATTORNEYS**  
**EMAIL : [dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)**

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

- 1 The Commission’s Legal Team intends to present the evidence of Mr Abegnigo Hlungwani (“**Mr Hlungwani**”) at its hearing held at 4<sup>th</sup> Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The presentation of Mr Hlungwani’s evidence will commence on **26 August 2019**, or so soon thereafter as his evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website ([www.sastatecapture.org.za](http://www.sastatecapture.org.za)) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 The allegations set out in the evidence of Mr Hlungwani implicate or may implicate you in, *inter alia*, allegedly participating in various acts of corruption, bribery, fraud, money laundering and/or tax evasion.
- 3 The statement of Mr Hlungwani deposed to on 22 August 2019 which implicate or may implicate you in the above allegations is annexed hereto marked “A”. Your attention is drawn to **paragraphs 5 to 24** of his statement.

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- 4 Your attention is also drawn to Annexures **AH1** and **AH2**.
- 5 In summary, it is averred that:
- 5.1 From 15 March 2010 Mr Hlungwani was employed as the Private Secretary to Minister Collins Chabane (“**Minister Chabane**”).
- 5.2 During late January or early February 2011, he received a call from one of your Private Secretaries who said that she was overseas with you and that he should inform Minister Chabane that you wished to speak to him.
- 5.3 A short while later, your Private Secretary then called again on his cellular phone and stated that you wished to speak to Minister Chabane.
- 5.4 Mr Hlungwani, accordingly, handed his phone to Minister Chabane.
- 5.5 After speaking to you, Minister Chabane told Mr Hlungwani that he needed to speak to Mr Maseko.
- 5.6 A few days later, Minister Chabane told Mr Hlungwani that they would need to move Mr Maseko and replace him with Mr Manyi.
- 5.7 The news of this broke on 2 February 2011 while you, amongst others, were in a Cabinet Meeting at which Ministers were informed, *inter alia*, that Mr Maseko was to be replaced by Mr Manyi.
- 5.8 At this stage, therefore, there had not been any official announcement with regard to Mr Maseko’s removal from office; and
- 5.9 On 16 July 2019, the same day that you were testifying at the Commission about the removal of Minister Chabane mission, Mr Hlungwani received an anonymous phone call warning him not to say anything about Mr Maseko’s removal from office, as well as an SMS threatening him.
- 6 Due to the fact that you are implicated or may be implicated by the evidence of Mr Hlungwani, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr Hlungwani will be uploaded



M. A .

on the Commission's website as soon as he concludes his evidence. The transcript will be uploaded daily.

7 If you wish to:

7.1 give evidence yourself;

7.2 call any witness to give evidence on your behalf; or

7.3 cross-examine the witness

then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so;

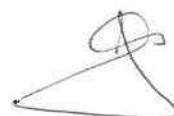
8 An application referred to in paragraph 7 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness' statement insofar as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.

9 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

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

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

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



M. A.<sup>3</sup>

- 11 The witness statement provided to you is confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.
- 12 Any response, affidavit or statement in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Mr Warren Redcliffe at secretary@commissionsc.org.za.

**DATED AT PARKTOWN ON THIS 23<sup>rd</sup> DAY OF AUGUST 2019**



---

**MS K B SHABALALA**  
Acting Secretary  
Judicial Commission of Inquiry into Allegations  
of State Capture, Corruption and Fraud  
in the Public Sector including Organs of State



Mr A .



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

**NOTICE IN TERMS OF RULE 3.3**

**TO : FORMER PRESIDENT JACOB GEDLEYIHLEKISA ZUMA**  
**C/O : LUGISANI MANTSHA ATTORNEYS**  
**EMAIL : [dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)**

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

- 1** The Commission’s Legal Team intends to present the evidence of Mr Lizo Njenje (“Mr Njenje”) at its hearing held at 4<sup>th</sup> Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The presentation of Mr Njenje’s evidence will commence on **26 November 2019**, or so soon thereafter as his evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website ([www.sastatecapture.org.za](http://www.sastatecapture.org.za)) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2** The allegations set out in the evidence of Mr Njenje implicate or may implicate you in, *inter alia*, allegedly participating in various acts of corruption, bribery, fraud, money laundering and/or tax evasion.
- 3** The relevant portions of the statement of Mr Njenje which implicate or may implicate you in the above allegations is annexed hereto marked “A”. Your attention is drawn to **paragraphs 7 to 11, 14, 16 and 19 to 25** of his statement.

- 4 In summary it is averred that:
- 4.1 You prevented the investigation being conducted by the State Security Agency (“SSA”) into the Gupta family;
  - 4.2 You assisted Ajay Gupta in their bid, through ICT, to acquire mineral rights from Kumba and Arcelor Mittal;
  - 4.3 You were aware of the meeting between Minister Shabangu and Ajay Gupta to fast-track their application for mineral rights; and
  - 4.4 You instructed Minister Cwele to instruct Mr Njenje to cease the prosecution of Arthur Frazer, notwithstanding that there was a strong case against him for his involvement in the Principal Agent Network (PAN) Programme.
- 5 Due to the fact that you are implicated or may be implicated by the evidence of Mr Njenje, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr Njenje will be uploaded on the Commission’s website as soon as he concludes his evidence. The transcript will be uploaded daily.
- 6 If you wish to:
- 6.1 give evidence yourself;
  - 6.2 call any witness to give evidence on your behalf; or
  - 6.3 cross-examine the witness
- then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.
- 7 An application referred to in paragraph 6 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness’ statement insofar as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.



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

**DATED AT PARKTOWN ON THIS 11<sup>th</sup> DAY OF NOVEMBER 2019**




---

**MS K B SHABALALA**  
**Acting Secretary**  
**Judicial Commission of Inquiry into Allegations**  
**of State Capture, Corruption and Fraud**  
**in the Public Sector including Organs of State**






2<sup>nd</sup> floor, Hillside House  
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Web: [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

**NOTICE IN TERMS OF RULE 3.3**

**TO : FORMER PRESIDENT JACOB GEDLEYIHLEKISA ZUMA**

**C/O : LUGISANI MANTSHA ATTORNEYS**

**EMAIL : [dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)**

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

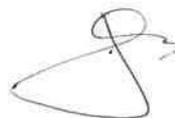
- 1 The Commission’s Legal Team intends to present the evidence of Mr Rieaz Shaik (“**Mr Shaik**”) at its hearing held at 4<sup>th</sup> Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The presentation of Mr Shaik’s evidence will commence on **25 November 2019**, or so soon thereafter as his evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website ([www.sastatecapture.org.za](http://www.sastatecapture.org.za)) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 The allegations set out in the evidence of Mr Shaik implicate or may implicate you in, *inter alia*, allegedly participating in various acts of corruption, bribery, fraud, money laundering and/or tax evasion.

1




- 3 The relevant portions of the statement of Mr Shaik which implicate or may implicate you in the above allegations is annexed hereto marked "A". Your attention is drawn to paragraphs 16 to 22, 24 to 28 and 30 to 34 of his statement.
- 4 In summary it is averred that:
- 4.1 You prevented the State Security Agency ("SSA") from conducting an investigation into the Gupta family and thereby enabled their capture of the State;
- 4.2 You offered Mr Shaik an Ambassadorship to Japan in order to secure his removal from the SSA;
- 4.3 When he refused this position, you immediately arranged for the Canadian Ambassador to move to Japan so that you could appoint Mr Shaik the position of Ambassador to Canada;
- 4.4 By getting rid of the top three executives at the SSA you undermined the agency and the security of the state; and
- 4.5 You acted as you did in order to protect the Gupta family.
- 5 Due to the fact that you are implicated or may be implicated by the evidence of Mr Shaik, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr Shaik will be uploaded on the Commission's website as soon as he concludes his evidence. The transcript will be uploaded daily.
- 6 If you wish to:
- 6.1 give evidence yourself;
- 6.2 call any witness to give evidence on your behalf; or
- 6.3 cross-examine the witness

then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.



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- 7 An application referred to in paragraph 6 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness' statement insofar as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.
- 8 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 9 Please take note that even if you do not make an application under Rule 3.4:
  - 9.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and
  - 9.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.
- 10 The extracts of the witness statement provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.



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- 11 Any response, affidavit or statement in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Mr Warren Redcliffe at [secretary@commissionsc.org.za](mailto:secretary@commissionsc.org.za).

**DATED AT PARKTOWN ON THIS 11<sup>th</sup> DAY OF NOVEMBER 2019**



---

**MS K B SHABALALA**  
Acting Secretary  
**Judicial Commission of Inquiry into Allegations  
of State Capture, Corruption and Fraud  
in the Public Sector including Organs of State**



<sup>4</sup>  
M A -



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

**NOTICE IN TERMS OF RULE 3.3**

**TO : FORMER PRESIDENT JACOB GEDLEYIHLEKISA ZUMA**  
**C/O : LUGISANI MANTSHA ATTORNEYS**  
**EMAIL : [dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)**

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

- 1 The Commission’s Legal Team intends to present the evidence of Mr Mzuvukile Maqetuka (“Mr Maqetuka”) at its hearing held at 4<sup>th</sup> Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The presentation of Mr Maqetuka’s evidence will commence on 26 November 2019, or so soon thereafter as his evidence may be heard. In the event of a change of date, it will be announced on the Commission’s website ([www.sastatecapture.org.za](http://www.sastatecapture.org.za)) and in the media. The evidence in question implicates or may implicate you in unlawful, illegal or improper conduct in the respects set out below.
- 2 The allegations set out in the evidence of Mr Maqetuka implicate or may implicate you in, *inter alia*, allegedly participating in various acts of corruption, bribery, fraud, money laundering and/or tax evasion.

3 The relevant portions of the statement of Mr Maqetuka which implicate or may implicate you in the above allegations is annexed hereto marked "A". Your attention is drawn to paragraphs 4 to 9, 11, 15 and 17.1 to 17.3 of his statement.

4 The relevant annexures to Mr Maqetuka's statement are annexed hereto marked "B".

5 In summary it is averred that:

5.1 You prevented the State Security Agency ("SSA") from conducting an investigation into the Guptas;

5.2 You failed to heed the advice of the senior directors general of the SSA with regard to the Guptas and the negative impact your relationship with them was having on the country;

5.3 You wished to receive a copy of the report prepared by the agency, which you were not permitted to see;

5.4 You essentially forced Mr Mo Shaik, Mr Lizo Njenje and Mr Maqetuka to leave the SSA; undermined its capabilities and led to its demise in order to protect the Gupta family.

6 Due to the fact that you are implicated or may be implicated by the evidence of Mr Maqetuka, you are entitled to attend the hearing at which that evidence is being presented. You are also entitled to be assisted by a legal representative of your choice when that evidence is presented. The full statement of Mr Maqetuka will be uploaded on the Commission's website as soon as he concludes his evidence. The transcript will be uploaded daily.

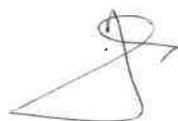
7 If you wish to:

7.1 give evidence yourself;

7.2 call any witness to give evidence on your behalf; or

7.3 cross-examine the witness

then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.



M. A. 2

- 8 An application referred to in paragraph 7 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness' statement insofar as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.
- 9 In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.
- 10 Please take note that even if you do not make an application under Rule 3.4:
- 10.1 in terms of Rule 3.10, the Chairperson may, at any time, direct you to respond in writing to the allegations against you or to answer (in writing) questions arising from the statement; and
- 10.2 in terms of Regulation 10(6) of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State GN 105 of 9 February 2018 published in Government Gazette 41436, as amended, the Chairperson may direct you to appear before the Commission to give evidence which has a bearing on a matter being investigated.
- 11 The extracts of the witness statement provided to you are confidential. Your attention is drawn to Regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witnesses' statements) submitted to the Commission by any person in connection with the Commission's inquiry.



M.A.

- 12 Any response, affidavit or statement in regard to this notice must be sent to Advocate André Lamprecht, Ms Shannon van Vuuren and Mr Warren Redcliffe at [secretary@commissionsc.org.za](mailto:secretary@commissionsc.org.za).

**DATED AT PARKTOWN ON THIS 11<sup>th</sup> DAY OF NOVEMBER 2019**



---

**MS K B SHABALALA**  
**Acting Secretary**  
**Judicial Commission of Inquiry into Allegations**  
**of State Capture, Corruption and Fraud**  
**in the Public Sector including Organs of State**



M-A.<sup>4</sup>

GEN-CORRESPONDENCE-006

IM13



LUGISANI MANTSHA ATTORNEYS

First floor | Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg  
Tel: 011 781 0099 | Fax: 011 781 0516 | e-mail: [info@lugisanimantshaattorneys.co.za](mailto:info@lugisanimantshaattorneys.co.za) |  
Box 1127 | Randburg | 2125

Our Ref: Mr L D Mantsha LM0257/18/C

Attention: The Secretary of the Commission  
Dr K De Wee  
C/O MABUNDA INC  
The Attorneys of record for the Commission

Per email: [busani@mabundainc.com](mailto:busani@mabundainc.com)

Date: 11 October 2018

**"PRIVATE AND CONFIDENTIAL"**  
**"URGENT"**

Dear Sir,

**RE: INVITATION TO THE FORMER PRESIDENT J.G ZUMA**

1. We refer to the invitation extended to the former President by Chairperson of the Commission.
2. The former President is attending to the matter and has written to the Presidency through his lawyers requesting to be provided with the necessary records so that he can assist the Commission.
3. We hope to receive such information from Presidency in the coming weeks and thereafter we shall promptly communicate with the Commission.

We record our thanks in anticipation.

Yours Faithfully

**Mr L.D. Mantsha**

Electronically sent and therefore not signed

---

Director: Lugisani Mantsha BJuris, LLB  
Lugisani Mantsha Incorporated Reg:2012/069234/23



M.A.

GEN-CORRESPONDENCE-013

**IM14**

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Tel (International): +27 (10) 214-0651  
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Email: [inquiries@sastatecapture.org.za](mailto:inquiries@sastatecapture.org.za)  
Web: [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

26 April 2019

Mr Lungisani Mantsha  
Lungisani Mantsha Attorneys  
1<sup>st</sup> floor  
Burnside Island Block 6  
410 Jan Smuts Ave  
Craighall  
Johannesburg

Dear Sirs

**Failure by the former President Mr JG Zuma to deliver an affidavit requested by the Chairperson**

1. It has been brought to my attention that on 13 September 2018 the Chairperson of the Commission, Deputy Chief Justice Zondo, made a request to the former President, Mr Jacob G Zuma, your client, through yourselves in an open Commission hearing that Mr Zuma deliver to the Commission an affidavit responding to allegations relating to him made by Ms Vytjie Mentoor in her affidavit submitted to the Commission and to allegations relating to him made by Mr Themba Maseko in his statement to the Commission.
2. I understand that sometime in October 2018 an inquiry was made to yourselves on behalf of the Commission to find out how far the former President was with complying with the Chairperson's request and, as a result thereof, you sent us your letter dated 11 October 2018. In that letter you informed us that the former President was attending to the matter and had written to the Presidency through his lawyers requesting necessary records so that he could assist the Commission.
3. In your letter you expressed the hope that you would receive the required information from the Presidency in the "coming weeks" and that, thereafter, "[you] shall promptly communicate with the Commission".
4. The Commission notes that it was on 13 September 2018 when the Chairperson made the request to the former President through you and it was on 11 October 2018 when you wrote the letter indicating that the former President was attending to the matter and had, through his lawyers, written to the Presidency to ask for certain information.
5. The Commission notes with deep concern that it is now more than seven (7) months since the Chairperson made the request and over six months since you wrote that letter and the former President has not complied with the Chairperson's request and has not informed the

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GEN-CORRESPONDENCE-014

Commission if he has any difficulties in complying with the request and, if so, what those are. For over six months since your letter the former President has not delivered the affidavit, has not informed the Commission if he has any difficulty with complying with the Chairperson's request and has not kept the Commission updated as to why he has not over such a long period failed to comply with the Chairperson's request.

6. The Commission has considered it necessary to convey to you and the former President its deep concern about the delay.

Yours sincerely



.....  
**MR PETER PEDLAR**

**Acting Secretary**

**Judicial Commission of Inquiry Into Allegations of State Capture, Corruption and Fraud  
in the Public Sector Including Organs of State Capture**



M-A . . . 1

GEN-CORRESPONDENCE-016

IM15



LUGISANI MANTSHA ATTORNEYS

First floor | Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg  
Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: [info@lugisanimentshaattorneys.co.za](mailto:info@lugisanimentshaattorneys.co.za) |  
Box 1127 | Randburg | 2125

Our Ref: Mr. D Mantsha

Att: Mr. Perter Pedlar  
Acting Secretary  
Commission of Inquiry  
Per email: [PeterP@commissionsc.org.za](mailto:PeterP@commissionsc.org.za)

And to the Chairperson of the Commission

And also by hand  
2<sup>nd</sup> Floor, Hillside House  
17 Empire Road  
Parktown  
Johannesburg  
2193

26 April 2019

**"PRIVATE AND CONFIDENTIAL"****"URGENT"**

Dear Sirs,

**RE: "ALLEGED FAILURE BY THE FORMER PRESIDENT, MR. JG ZUMA TO  
DILIVER AN AFIDAVIT REQUESTED BY THE CHAIRPERSON"**

- 1 We refer to your letter dated 26<sup>th</sup> April 2019. At the onset, we take offence to your accusation or labelling that the former President Zuma **"failed to deliver an affidavit as requested by the chairperson of the Commission"**, your characterization and labelling of the former President Zuma in this regard displays prejudice towards him.

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M. A.

## GEN-CORRESPONDENCE-017

2. We indeed confirm that we had informed the Commission that we had requested information from Presidency in order to provide the response to the invite of the Chairperson of the Commission, sadly the Presidency opted to provide the said information to the Commission and not to former President Zuma, and in return the Commission, for reasons unknown to us deemed it fit not to share the said information with us while knowing very well that we had requested the same information from Presidency in order to respond to the invite of the chairperson.
3. Presidency had only provided us with some of the information we had requested, only on the 24<sup>th</sup> April 2019, enclosed herewith find the copy of the email from Presidency enclosing some of the information that we have requested.
4. We reject strongly any suggestion that the Former President is not co-operating with the Commission, in fact it is the Commission and the Presidency's lack of co-operation in providing us with the information in their possession which is required by former President Zuma for the purposes of responding to the chairperson's invite, this should be a matter of grave concern to the Commission and everyone who cares about the impartiality, fairness and the integrity of the Commission process.
5. The Former President Zuma had requested the said information from Presidency in September 2018 and was partially provided with some information on 24<sup>th</sup> April 2019, and further the Commission, which has been provided with the said information by the Presidency (for reasons which we hope will be known soon) did not give us the said information, while knowingly as we had informed the Commission in writing that we are awaiting the said information from the Presidency in order to respond to the invite of the chairperson.
6. The former President insists to be provided with the complete information which he had requested from Presidency in order for him to respond to the chairperson 's invite, and his rights are strictly reserved in this regard.



M. A.



SEQ 01/2020-028  
GEN-CORRESPONDENCE-076

# IM16



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17 Empire Road,  
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Web: [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

**30 April 2019**

Lugisani Mantsha Attorneys  
1<sup>st</sup> floor Burnside Island Block 6  
410 Jan Smuts Ave  
Craighall  
Johannesburg

Dear Sir

**Appearance of former President, Mr J.G. Zuma, before the Commission**

1. The Commission believes that it is important that time be set aside when the former President, Mr J G Zuma, whom you represent, would appear before the Commission in order to:
  - (a) give his side of the story on the evidence given by various witnesses in which his name has been mentioned or in which he has been implicated in one way or another.
  - (b) to answer such questions as the Chairperson and/or a representative of the Commission's Legal Team or a Commission's evidence leader may wish to put to him about matters which are the subject of the Commission's inquiry.
2. The questions that Mr Zuma will be asked will cover matters dealt with by certain witnesses who have given evidence before the Commission in so far as he may have knowledge thereof as well as any other matters that fall within the terms of reference of the Commission. The list of witnesses in regard to whose evidence Mr Zuma will be asked questions is attached to this letter marked "A". Copies of the statements or affidavits (or the relevant parts thereof) of the witnesses were previously sent to you. Accordingly, they are not being sent again.
3. Pursuant to the above, the Commission has set aside 15 to 19 July 2019 as the dates during which it would like the former President to appear before it for the purposes given in 1(a) and (b) above.

M-A

SEQ 01/2020-029  
GEN-CORRESPONDENCE-077

4. The Commission would appreciate it if written confirmation can be given that Mr Zuma will appear before the Commission on the above dates. It would, therefore, be highly appreciated if you would kindly take instructions from your client on this issue and revert.

Yours sincerely



.....  
**PETER PEDLAR**  
Acting Secretary



M. A.

SEQ 01/2020-031  
GEN-CORRESPONDENCE-079

**IM17A**



2<sup>nd</sup> floor, Hillside House  
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2193  
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Web: [www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

06 May 2019

To: **Lugisani Mantsha Attorneys**

[dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)

Dear Sir

**APPEARANCE OF FORMER PRESIDENT, MR JACOB ZUMA, BEFORE THE  
COMMISSION: LIST OF WITNESSES**

1. With reference to our letter dated 30 April 2019, it has come to the attention of the Commission that the list of witnesses in regards to whose evidence Mr Zuma will be asked questions, were omitted, and to which we refer as Annexure A in the said letter.
2. This oversight in attaching the list of witnesses is regretted.
3. We hereby attach as per Annexure A the list of witnesses.
4. It will be highly appreciated if you will inform your client of the contents of this letter

Kind regards

**Mr. Peter Pedlar,**

**Acting Secretary**

**Judicial Commission of Inquiry into Allegations of State Capture,**

**Corruption and Fraud in the Public Sector Including Organs of State**

M-A

## Annexure "A"

1. Mr Themba Maseko, former CEO or Director-General of GCIS
2. Ms Vytjie Mentor, former ANC Member of Parliament and Chairperson of the Public Enterprises Portfolio Committee
3. Mr Nhlanhla Nene, former Minister of Finance
4. Mr Pravin Gordhan, Minister of Public Enterprises
5. Ms Barbara Hogan, former Minister of Public Enterprises
6. Mr Ngoako Ramathlodi, former Minister of Mineral Resources
7. Adv Sam Mufhe, former advisor to Mr Ngoako Ramathlodi, former Minister of Mineral Resources
8. Mr Filile Mbalula, former Minister of Sports and Recreation
9. Mr Angelo Agrizzi, former COO of BOSASA



M.A.



LUGISANI MANTSHA ATTORNEYS

IM17B

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 Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: [info@lugisanimantshaattorneys.co.za](mailto:info@lugisanimantshaattorneys.co.za) |  
 Box 1127 | Randburg | 2125

Our Ref: Mr. D Mantsha LM0257/18/C

Att: Adv Pretorius SC  
 Commission of Inquiry

And

Ms K B Shabalala  
 Acting Secretary  
 Commission of Inquiry

Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Date: 18 July 2019

**"PRIVATE AND CONFIDENTIAL"**  
**"URGENT"**

Dear Adv Pretorius,

**RE: APPEARANCE OF FORMER PRESIDENT, MR. JACOB ZUMA, BEFORE  
 THE COMMISSION**

1. We refer to the above matter.
2. As directed by the Chairperson, we have indeed considered our client's position in respect of his engagement with and participation in the further proceedings of the Commission.

M. A .

3. We therefore address this letter to you to record our client's position, which is informed by his own experience of the Commission having presented himself at the Commission's invitation, which was described by the Commission as a courtesy.
4. Our client's misgivings about how the Commission approached him are recorded in the correspondence exchanged between the Commission and ourselves.
5. Despite the reservations set out in our correspondence, our client, out of respect for the citizens of this country and the Commission, felt it was necessary to honour the invitation. These reservations were repeated by our counsel during the proceedings on 15 July 2019, when our client appeared before the Commission.
6. On the second day, our client personally, and through our counsel raised several objections to the manner in which he was invited and treated. In fact, his reservations were fortified when he was subjected to relentless cross-examination. This was despite the undertaking that he would not be cross-examined.
7. We hold a strong view that it is the Commission that must assure our client that it is still capable of curing what we view as serious procedural deficiencies.
8. Kindly revert to us with a proposal on how our client's serious complaints and reservations can still be remedied to safeguard the rights of our client and the integrity of the Commission.

Yours Faithfully,

**Mr. L.D. Mantsha**  
Transmitted electronically without signature.



M. A.



2<sup>nd</sup> floor, Hillside House  
17 Empire Road,  
Parktown  
Johannesburg  
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**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

**18 July 2019**

To: Mr D Mantsha  
Lugisani Mantsha Attorneys  
E-mail: [info@lugisanimantshaattorneys.co.za](mailto:info@lugisanimantshaattorneys.co.za)

Dear Sirs

**RE: FORMER PRESIDENT ZUMA: APPEARANCE BEFORE THE COMMISSION**

1. We acknowledge receipt of your letter of today, 18 July 2019.
2. The Commission's Legal Team continues to assert all the powers of the Commission contemplated by the Commissions Act, the Regulations and the Rules.
3. The Chairperson of the Commission has the discretion to call witnesses to give oral evidence before the Commission. Former President Zuma responded to an invitation from the Chairperson to appear.
4. Regulation 8(1) provides that no person appearing before the Commission may refuse to answer any question on any grounds other than those contemplated in section 3(4) of the Commissions Act, 1947. Rule 3.2 allows a member of the Commission's Legal Team to put questions to a witness which include "questions aimed at assisting the Commission in assessing the truthfulness of the evidence of a witness." Indeed, that forms part of the duties of the Legal Team.
5. The Commission's Legal Team has not made, and does not intend to make, any concessions in this regard. All witnesses are equally entitled to fair procedures and to fairness in the application of procedures.
6. Former President Zuma has not yet been cross-examined. He is still in the process of being asked questions to elicit his full response in detail in respect of the matters

Page 1 (Total Pages 2)

M. A.

raised by the nine witnesses whose statements implicating him have been furnished to him for purposes of this week's hearings. The process will necessarily have to be continued well beyond the scope of the matters raised by these particular witnesses.

7. The need for cross-examination will be addressed in terms of the Rules when it arises.
8. It is denied that Mr Zuma's procedural objections, complaints and reservations are valid. His rights and the integrity of the Commission will be fully safeguarded by continued adherence to the Commissions Act, Regulations and Rules. No proposal to deviate from these provisions will be forthcoming.
9. Accordingly, the Legal Team's intention is to proceed with the hearing tomorrow.

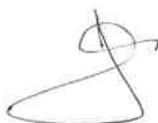
Yours faithfully,



**Ms Kwezi Brigitte Shabalala**

**Acting Secretary**

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



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LUGISANI MANTSHA ATTORNEYS

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Our Ref: Mr. D Mantsha LM0257/18/C

Att: Adv Pretorius SC  
 Commission of Inquiry

And

Ms K B Shabalala  
 Acting Secretary  
 Commission of Inquiry

Per email: [ppretorius@counsel.co.za](mailto:ppretorius@counsel.co.za)  
[ShannonV@commissionsc.org.za](mailto:ShannonV@commissionsc.org.za)

Date: 18 July 2019

**"PRIVATE AND CONFIDENTIAL"**  
**"URGENT"**

Dear Adv Pretorius,

**RE: APPEARANCE OF FORMER PRESIDENT, MR. JACOB ZUMA, BEFORE  
 THE COMMISSION**

1. We acknowledge receipt of letter in which you expressed your unwillingness to make proposal in line with the directive of the Chairperson.
2. We persist with our concerns and objections, the positions adopted in your letter under reply does not deal with our concerns and objections.
3. Our client's rights are reserved.

Yours Faithfully,

**Mr. L.D. Mantsha**

Director: Lugisani Mantsha Bjuris, LLB  
 Lugisani Mantsha Incorporated Reg:2012/069234/21

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SEQ 01/2020-041

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

30 July 2019

Dear Advocate Sikhakhane,

By email: [inquiries@sastatecapture.org.za](mailto:inquiries@sastatecapture.org.za)  
[Redacted]

**RE: FORMER PRESIDENT ZUMA: AREAS OF INTEREST**

1. I refer to the statement of the Chair of the State Capture Commission that was placed on record during the hearing of Friday, 19 July 2019, recording the agreement reached between him and Counsel for the Commission and Mr Zuma respectively on procedural steps to be followed.
2. Consequently, I set out in the schedule attached hereto marked 'A', the particular 'areas of interest' identified in respect of the testimony of nine of the witnesses who have given evidence concerning Mr Zuma, as well general matters arising therefrom.
3. In regard to these 'areas of interest' further details may be obtained from the statements and documentation already provided to your attorney.
4. It is expected that further documentation relevant to these 'areas of interest' and the related general matters will be introduced into evidence either before or when Mr Zuma returns to testify before the Commission. Such documentation will be provided to your attorney when the Commission is in a position to do so, affording Mr Zuma a reasonable time for preparation before being asked questions in regard thereto.

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5. It is also the intention to ask Mr Zuma questions regarding matters raised by other witnesses who have testified or will testify before the Commission. Further details and documentation in that regard will be provided to your attorney in due course.
6. We note that it has been agreed that Mr Zuma will provide the Commission with a statement or statements dealing with the 'areas of interest' identified by the Commission's Legal Team before he returns to the Commission to give evidence.
7. As agreed, we will meet as soon as we are both available to agree a mutually convenient timetable for the above. Should we be unable to reach agreement on any procedural issue in this regard, the matter will be referred to the Chair for a ruling.
8. Finally the Chair has directed that Mr Zuma should return to give evidence from 14 October to 25 October 2019 and then from 11 November to 15 November 2019.

Yours faithfully,

P.P.

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Paul Pretorius  
Head of the Legal Team  
State Capture Commission



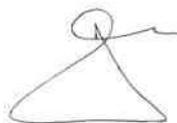
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SCHEDULE 'A'Witness

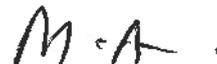
Mr Themba Maseko

Area of interest

1. The communication from 27 former directors general to the then Minister of Finance and another, dated 22 April 2016, and copied to the then President and Deputy President. (Exhibit E1 pages 75-81). Mr Zuma's knowledge in relation thereto. Any consequent action by Mr Zuma.
2. The internal investigations by the ANC under the chairmanship of Mr Gwede Mantashe into matters raised in the abovementioned communication.
3. The functions of the Government Communications and Information System (Service) (GCIS), particularly in relation to expenditure of government departments on government advertising.
4. The establishment by Mr Ajay Gupta and others of the New Age Newspaper and the ANN 7 television news channel. In particular the steps taken by Mr Ajay Gupta to finance the said projects through government advertising. Further, any communication between Mr Zuma and Mr Maseko in regard to the provision of assistance to Mr Ajay Gupta or the Gupta family relating to the above projects or generally.
5. Mr Zuma's relationship with members of the Gupta family particularly in relation to assistance of any kind directly or indirectly rendered by Mr Zuma to the Gupta family concerning their business interests. Any benefits received directly or indirectly from the Gupta family by Mr Zuma or any member of Mr Zuma's family.
6. The circumstances surrounding Mr Maseko's transfer from GCIS to the Department of Public Service and



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Administration during or about January and February 2011, including but not limited to: the reason therefor; the legal powers and duties of the President in relation to the transfer; and any action taken or instruction given by the President in relation to the transfer.

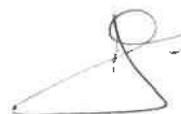
Ms Vytjie Mentor

1. The removal of Ms Mentor as chair of the Parliamentary Portfolio Committee of Public Enterprises and the reasons therefor.
2. The State visit to China in or about August 2010 and in particular but not limited to: the role any member of the Gupta family played at any stage of the visit; any attempted communication between Ms Mentor and Mr Zuma.
3. The "offer" of the position of Minister of Public Enterprises made by a member of the Gupta family to Ms Mentor during or about September or October 2010.
4. Mr Zuma's presence or otherwise at the Gupta residence in Saxonwold, Johannesburg during or about September or October 2010 when Ms Mentor was present there and any communication between Mr Zuma and Ms Mentor on that occasion.
5. The cabinet reshuffle at the end of October 2010; the dismissal of Ms Hogan. Ms Mentor's evidence in relation thereto.
6. Mr Zuma's knowledge of Ms Mentor and his statements in relation thereto during March 2016.
7. The criminal charges laid against Mr Zuma and others by Ms Mentor during or about May 2016 and circumstances related thereto.

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M. A. A.

Ms Barbara Hogan

1. The policy of "deployment" in the ANC and the application thereof.
2. The circumstances of and surrounding the attempts to have Mr Gama appointed as CEO of Transnet, and the subsequent appointment of Mr Gama as CEO of Transnet Freight Rail.
3. The report and other documents sent to Mr Zuma on or about 28 July 2009 by Ms Hogan and the contents thereof.
4. The powers and duties of the President in relation to the appointment of Board members and senior executives of State Owned Entities.
5. Mr Zuma's conduct in relation to the appointment or proposed appointment of a new Transnet Board and CEO during the latter part of 2010; including but not limited to Ms Hogan's request that the matter be placed before Cabinet.
6. The dismissal of Ms Hogan as Minister of Public Enterprises during October 2010 and the reasons therefor.
7. The appointment of Mr Gigaba as Minister of Public Enterprises during October 2010. Mr Gigaba's appointments of Transnet Board members senior executives of Transnet during his term of office.
8. The circumstances of and surrounding the resignation or termination of service of Mr Jacob Maroga as CEO of Eskom during or about October 2009.
9. Ms Hogan's communications to Mr Zuma during or about November 2009 regarding the resignation or continued employment of Mr Maroga and Mr Zuma's response thereto.



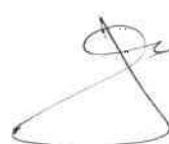
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10. Mr Zuma's conduct in relation to Mr Maroga's position at Eskom during or about November 2009.
11. Generally, Mr Zuma's role, in principle and in fact, in respect of dismissals and appointments of SOE Board members and senior executives.
12. Mr Zuma's knowledge of the performance of SOE's during his tenure as president and action taken by him in response thereto.

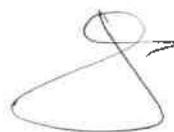
Mr Nhlanhla Nene

1. The role and functions of National Treasury in government; National Treasury's vulnerability to attacks; and actual attacks on National Treasury during Mr Nene's tenure as Minister of Finance during 2014 and 2015.
2. The report of July or August 2015 entitled "Project Spider Web" and its origins and contents. Any action taken by Mr Zuma in response thereto or in connection therewith.
3. Mr Zuma's alleged communications to Mr Nene approximately a month prior to the release of the said report in regard to "apartheid agents" in Treasury.
4. Mr Zuma's communications to Mr Nene regarding the proposed sale of Petronas to PetroSA.
5. The offer of the position of Finance Minister to Mr Mcebisi Jonas by Mr Ajay Gupta during October 2015 and Mr Zuma's knowledge thereof.
6. The proposed "Nuclear Build Project" as testified to by Mr Nene including but not limited to:
  - 6.1 Its costs and investigations and reports in relation thereto;



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M-A

- 6.2 The process followed in relation to the procurement of nuclear power plants and related services and facilities;
- 6.3 The financial and economic implications of the Nuclear Build Project and the financial risks associated therewith;
- 6.4 The events in Russia during July 2015 testified to by Mr Nene regarding a proposed nuclear deal, including but not limited to the request made to Mr Nene to sign the letters of intent referred to by Mr Nene in evidence;
- 6.5 The relationship between South Africa and Russia in regard to the Nuclear Build Project and Mr Zuma's involvement in relation thereto;
- 6.6 The Cabinet decision of 10 June 2015 in relation to the proposed Nuclear Build Project;
- 6.7 The response of Mr Zuma to Mr Nene's refusal to sign the said letters of intent;
- 6.8 The establishment of the joint task team between National Treasury and the Department of Energy, its report and recommendations – culminating in meetings held by Mr Zuma and certain cabinet members on 8 December 2015 and in a cabinet meeting held on 9 December 2015. The contents of these meetings and their outcomes.
7. The dismissal of Mr Nene and the appointment of Mr Des van Rooyen.
8. The reason or reasons for the dismissal of Mr Nene. The proposed redeployment of Mr Nene to the BRICS Bank.
9. The reason or reasons for the appointment of Mr Des van Rooyen.



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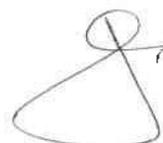
SEQ 01/2020-048

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10. Matters related to South African Airways (SAA).
  - 10.1 Leadership instability of SAA during or about 2015;
  - 10.2 The meeting between Ms Hogan, Ms Myeni and Mr Zuma held in or about November 2015, its contents and outcomes;
  - 10.3 Matters related to the proposal to establish an SAA flight route to Khartoum. Mr Zuma's conduct in relation thereto. Ms Myeni's conduct in relation thereto.

Mr Gordhan

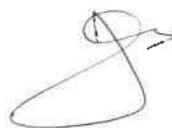
1. Mr Gordhan's general comments regarding the nature of the phenomenon "state capture".
2. Mr Gordhan's general comments on the role played by National Treasury in our constitutional state. The relationship between the President and his Minister of Finance – the need for a close and functional relationship.
3. The interactions between Mr Zuma and Mr Gordhan in relation to the Nuclear Build Project.
4. The restructuring of the SAA Airbus deal. The interactions between Mr Zuma and Mr Gordhan in relation thereto.
5. Matters related to the SAA Board and appointments thereto during or about 2015 and Ms Myeni's continued tenure as Chairperson thereof.
6. The investigation into the conduct of Mr Gordhan by the Hawks during or about February 2016. Mr Zuma's interactions with Mr Gordhan in this regard. The meeting of senior ANC officials held on 22 February 2016. The participation of Mr Zuma in that meeting. The outcome of that meeting and what



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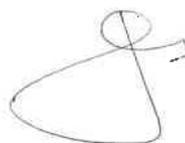
followed in relation to the matters discussed at that meeting.

7. Matters related to the dismissal of Mr Nene during December 2015 addressed in Mr Gordhan's evidence.
8. Matters related to the subsequent appointment of Mr Van Rooyen during December 2015 addressed in Mr Gordhan's evidence.
9. The relationship between Mr Tom Moyane and Mr Gordhan. Mr Zuma's knowledge thereof and his actions in relation thereto.
10. Matters related to proposed amendments to the Financial Intelligence Centre Act. Mr Zuma's conduct in relation thereto. Mr Gordhan's evidence in relation thereto.
11. The announcement by Advocate Abrahams of charges against Mr Gordhan on 11 October 2016 and Mr Zuma's knowledge thereof.
12. The banks' closure of Gupta related bank accounts during or about April 2016 and the response of the National Executive thereto.
13. Mr Gordhan's dismissal as Minister of Finance in March 2017 and the reasons therefor. The matter of the "Operation Checkmate" report and Mr Zuma's conduct in relation thereto. Mr Zuma's alleged reliance thereon.
14. The occasion on which Mr Zuma introduced Mr Ajay Gupta to Mr Gordhan during Mr Gordhan's first term as Minister of Finance as testified to by Mr Gordhan.
15. Mr Gordhan's evidence concerning State Owned Enterprises; their corporate governance; performance; financial losses; operational capability; corruption.



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- Advocate N A Ramatlhodi
1. Whilst Mr Ramatlhodi was Minister of Mineral Resources and during the period 25 May 2014 to 23 September 2015:
    - 1.1. The request by Mr Duduzane Zuma to Mr Ramatlhodi to attend to the apparent closure of a Gupta-owned mine for safety reasons. Mr Ramatlhodi's subsequent discussion of this issue with Mr Zuma.
    - 1.2. The request by Dr Ngubane to Mr Ramatlhodi to shut down all Glencore owned mines. Mr Brian Molefe's involvement therein. The involvement in or knowledge of such matters on the part of Mr Zuma.
    - 1.3. The dismissal of Mr Ramatlhodi as Minister of Mineral Resources in September 2015 and the reasons therefor.
- Mr Mahlodi Sam Muofhe
1. The meeting between Mr Muofhe and Mr Zuma during or about March 2015. The contents of the meeting particularly in regard to the proposed appointment of Mr Muofhe as head of the NPA and in regard to Mr Zuma's reason for terminating or otherwise bringing to an end the services of Mr Nxasana.
  2. The proposed appointment of Mr Mzwanele Manyi as Director-General of the Department of Mineral Resources. Mr Zuma's involvement therein and his response to the failure or refusal of Mr Ramatlhodi so to appoint Mr Manyi.
- Mr Fikile Mbalula
1. The ANC NEC meeting of August 2011 and what took place during that meeting. In particular, Mr Mbalula's version of what he told the meeting of his encounter with Mr Ajay Gupta. Mr Zuma's response thereto. Any



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action taken by Mr Zuma on account of what was said at the meeting and the concerns there raised.

Mr Angelo Agrizzi

1. Payments made to Ms Dudu Myeni for onward payment to the Jacob Zuma Foundation. Any benefit that Ms Myeni received from the Jacob Zuma Foundation.
2. The relationship between Mr Zuma and Mr Gavin Watson (the Chief Executive Officer of the Bosasa group of companies). Any benefits Mr Zuma, or the African National Congress (ANC), received from Mr Watson or the Bosasa group of companies.
3. Visits by Mr Zuma to the Bosasa Office Park. The hosting of ANC functions by Bosasa, including a Cabinet Lekgotla. The hosting of functions for Mr Zuma such as his birthday party in 2015 in Durban.
4. The meeting at Nkandla in July 2014 between Mr Zuma, Ms Dudu Myeni, Mr Gavin Watson, Mr Phillip O'Quigley (Falcon Oil and Gas chairman) and attorney Ms Lizel Oberholzer, in relation to a proposed change of legislation or regulations concerning fracking in the Karoo. The subsequent promulgation of the Regulations for Petroleum Exploration and Production on 03 June 2015, issued in terms of the Mineral and Petroleum Resources Development Act, 28 of 2002.
5. The involvement of Mr Zuma with Law Enforcement Agencies including the Hawks, the Special Investigations Unit and the National Prosecuting Authority and their officials in relation to their investigations into Bosasa. Any discussion with officials from the Department of Correctional Services, such as Mr Linda Mti in relation thereto. Any discussion with Mr Watson in this regard, particularly



SEQ 01/2020-052

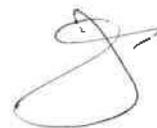
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during 2017. Mr Zuma's knowledge of Ms Myeni's conduct in this regard as testified to by Mr Agrizzi.

6. Mr Zuma's knowledge of any corrupt relationship between officials of the Department of Correctional Services and the Bosasa group of companies.

Matters arising from the  
above areas of interest

1. A history of the relationship between Mr Zuma, Mr Ajay Gupta, Mr Tony Gupta and other Gupta family members.
2. Any involvement of Mr Zuma in the appointment of his son, Mr Duduzane Zuma, into positions within Gupta related entities.
3. Any financial benefits received by Mr Zuma or any of his other family members from Mr Duduzane Zuma as a result of his shareholding or positions within Gupta related entities.
4. Excluding the benefits derived by Mr Duduzane Zuma from his positions within Gupta related entities, any financial or other benefits received by Mr Zuma or any of his family members from any of the Gupta family members or Gupta related entities.
5. Knowledge of the companies and service providers involved or potentially to be involved in the Nuclear Build Project. The ownership of the uranium mine or mines related or potentially related to the Nuclear Build Project.
6. The declarations of interests and benefits received, made by Mr Zuma to the Parliamentary Ethics Committee over the period 2009 to 2018, being benefits received in addition to his income as President of the Republic of South Africa.




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- 7 The President's role and responsibilities in the appointment or removal of Cabinet Ministers, Directors Generals or Heads of Government Departments, Board members and Executive Officers of State Owned Entities.



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 Box 1127 | Randburg | 2125

Our Ref: Mr. D Mantsha LM0257/18/C

Att: Ms K B Shabalala  
 Acting Secretary  
 Commission of Inquiry  
 Per email: [BoipeloR@commissionso.org.za](mailto:BoipeloR@commissionso.org.za)

Att: Adv Pretorius SC  
 Commission of Inquiry

Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)  
[ShannonV@comissionso.org.za](mailto:ShannonV@comissionso.org.za)

Date: 16 August 2019

**PRIVATE AND CONFIDENTIAL**  
**"URGENT"**

Dear Mr. Pretorius,

**RE: FORMER PRESIDENT, MR. JACOB ZUMA - AREAS OF INTEREST**

1. We refer to your letter of 30 July 2019 and your various communication with Advocate Muzi Sikhakhane SC in relation to the appearance of the former President Mr. Zuma ("our Client / Mr. Zuma") before the Commission. Your letter follows a directive publicly made by the chairperson of the Commission regarding the way forward.

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Director: Lugisani Mantsha B Juris, ELS  
 Lugisani Mantsha Incorporated Reg:2012/069234/21

Mr. A.

2. The Chairperson's publicly stated way forward is captured as follows in the record:

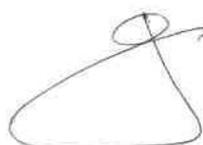
*"I have had a discussion with counsel for the former President and counsel for the -- from the Commission's legal team ... the former President, I've been told, has indicated that he wishes to continue to cooperate with this Commission and his legal team also wish to continue to work with this Commission...."*

*It has been agreed that the way in which the former President's concerns may be taken care of is that the Commission's legal team will indicate to his legal team what the Commission's areas of interest are in each witnesses statement or affidavit on which the Commission or they would like the former President to testify and that thereafter the former President will then provide, thorough his legal team, statements that indicate what he has to say on the incidents or areas of interest that will have been pointed out by the Commission's legal team in regard to each witnesses statement or affidavit.*

*This helps because sometimes in one statement, a witness deals with a number of things, some of which may have nothing to do with the former President but there may be areas where the Commission's legal team wishes to hear what he knows , or what he has to say.*

*The agreement is that counsel, certainly the lead counsel but counsel for the former President will meet within the next -- before the end of the next two weeks with a view to the Commission's legal team, making available to the former President's counsel a document that indicates exactly which areas in the various affidavits of witnesses they would like the former President to give information about. The two teams, counsel will agree the timeframes -- the timeframe within which the former President's counsel will provide the former President's statements in regard to the specific areas of interest that will have been indicated in regard to the specific affidavits of the witnesses concerned. If the two sides are not able to agree on the timeframe, they will approach me and I will hear both sides and make a decision on the timeframe.*

*It is contemplated within this agreement that at a certain stage -- that at a certain stage the former President will come back and give evidence and it is contemplated that with the process that has been agreed to by all sides, it may well be that the time that he will need to testify might be shorter, might be shortened because of the exchange of information that will have happened including statements, affidavits from the former President."*



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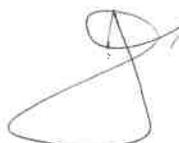
3. It was our understanding of the agreement that central to the exercise was that you would indicate to us which areas you wished Mr. Zuma to cover or respond to. However, it is our recollection and is confirmed by the record that the time frames for Mr. Zuma to answer or provide his version to the Commission were to be agreed between yourself and our counsel, having regard to the scope of the issues as well as the consultations that may be required. We are in the process of responding to the issues raised in your letter of 30 July 2019 to Sikhakhane SC. We are surprised by the unilateral directive in this regard as it flies in the face of the agreement and the co-operative spirit that underpinned it.

4.

*"...It is contemplated within this agreement that at a certain stage – that at a certain stage the former President will come back and give evidence and it is contemplated that with the process that has been agreed to by all sides, it may well be that the time that he will need to testify might be shorter, might be shortened because of the exchange of information that will have happened including statements, affidavits from the former President"*

[Own emphasis]

5. In this regard, we kindly request that you bring this to the Chairperson's attention. We suggest that the dates being directed by the Chairperson serve as mere recommendation and/or proposal. In other words, we request that they be treated as non-binding targets and with the possibility of either party to request an extension should same be necessary.
6. In the circumstances, please let us know whether the Chairperson is receptive of our correction about the terms of the process of engagement and whether he is amenable to our proposal.



M-A .

SEQ 01/2020-059

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- 7. We look forward to hearing from you.
- 8. Our client's right remains reserved.

Kind Regards,

**Mr. L.D. Mantsha**  
Transmitted electronically without signature.



M.A.

SEQ 01/2020-233



LUGISANI MANTSHA ATTORNEYS

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Box 1127 | Randburg | 2125|

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Our Ref: Mr. D Mantsha LM0257/18/C

Att: Ms. K B Shabalala  
Acting Secretary  
Commission of Inquiry  
Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Att: Adv Pretorius SC  
Commission of Inquiry  
Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)  
And to: [ShannonV@commissionsc.org.za](mailto:ShannonV@commissionsc.org.za)

Date: 04 September 2019

**"PRIVATE AND CONFIDENTIAL"**  
**"URGENT"**

Dear Adv Pretorius,

**RE: FORMER PRESIDENT, MR. JACOB ZUMA**

1. We refer to our previous correspondence of 16 August 2019.
2. We also refer to the discussions between our senior counsel and Mr Paul Pretorius in which our senior counsel made an undertaking that we would revert back to the Commission regarding former President Zuma's testimony.
3. We have taken instructions in the attempt to ascertain the time we require to furnish the Commission with our comments on its questions and our client's answers thereto.

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Director: Lugisani Mantsha B Juris, LLB  
Lugisani Mantsha Incorporated Reg:2012/069234/21

M-A.

4. However, while we are engaged in this exercise which was a directive from the Chairperson, there has been a series of intervening events that affect our client's testimony and/or continued participation in and assistance to this important Commission. These events are *inter alia* as follows:
- 4.1. subsequent to our client's testimony in which he responded to the evidence of Mr Themba Maseko, we were surprised that the Commission had obtained or invited a witnesses, Messrs Brett Simons and Hlungwani, whose hearsay evidence sought to rebut the evidence already given by our client in response to what he thought was a complete case against him in that respect. Our senior counsel also advised us that Pretorius SC confirmed that the dates which were stated in your previous letter as directives from the Chairperson were estimates rather than fixed date. We are happy with that clarification.
- 4.2. On 08 August 2019 our client was sued by Mr Hanekom making reference to our client's testimony at the Commission;
- 4.3. We have been contacted by attorneys of Mr Sipiwe Nyanda who informed us that a summons has been issued against our client for defamation based on our client's testimony to the Commission;
- 4.4. Mr Ngoako Ramatlhodi has also threatened to issue summons suing our client for his testimony before the Commission.
5. Two difficulties arise from the above issues. First, given the testimony of Simons and Hlongwane it is clear to us that the Commission had not obtained the totality of its case against our client in respect of Mr Maseko's accusations. Accordingly, it is our respectful view that the process would be better served if our client was called at the end of the process so that he can comprehensively respond to a complete case against him. The calling of Messrs Simons and Hlungwani clearly demonstrate the futility of calling our client to respond to incomplete evidence



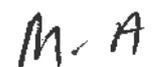
M-A

relating to one allegation. It is also unfair to both our client and the Commission to approach his evidence on such a piecemeal basis.

6. Second, we consider the court applications and threats thereof to constitute an interference with our client's incomplete testimony. The lawsuits which are based on his evidence or anticipated evidence do not only intimidate our client but undermine the work of the Commission.
7. We were in the process of compiling a comprehensive answer to the questions based on instructions from our client when we received notices that further two witnesses had been called in respect of Mr Maseko's testimony.
8. We regard the lawsuits which are based on the incomplete testimony of our client as irremediable prejudice to him.
9. In the light of the above, we make the following proposal. To avoid the inconvenience and costs of our client coming in and out of the Commission to respond to the same allegations, we propose that our client should rather be called at the end of all the evidence which implicates him. Our client is concerned that his continued testimony is being impeded by the lawsuits which are filed even before he has completed his testimony before the Commission.
10. We cordially invite the Commission to provide our client with a mechanism that will protect him from being sued before he can complete his evidence.
11. We await your favourable response.
12. Our client's rights remain reserved.

Yours Faithfully,

**Mr. L.D. Mantsha**  
Transmitted electronically without signature.



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

**10 September 2019**

*Our reference: Ms. B.K Shabelala / Ms. L. Buthelezi*

**To: Mr. Daniel Mantsha**  
**C/o: Lugisani Mantsha Attorneys**  
**By email: [den@lugisanimantshaattorneys.co.za](mailto:den@lugisanimantshaattorneys.co.za); and**  
**Copy to: [info@lugisanimantshaattorneys.co.za](mailto:info@lugisanimantshaattorneys.co.za)**  
**Re: Evidence: Former President J.G. Zuma**

Dear Sir,

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

1. Your letter dated 23 August 2019 to Advocate Paul Pretorius SC refers.
2. It is hereby confirmed that the dates that have been set aside for the next appearance of the former President before the Commission are 14 October 2019 to 25 October 2019; and 11 November 2019 to 15 November 2019.
3. In so far as your letter seeks to find out whether those dates are binding, I am directed by the Chairperson to advise that the dates have been determined by the Chairperson and stand unless changed by him, which he has power to do if sound and cogent reasons are furnished to him to do so. However, in this regard one of the factors that the Chairperson will take into account, together with other

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relevant factors, is that, as things presently stand, the Commission's lifespan goes up to the end of February 2020.

Yours faithfully.



**Ms. Brigitte K. Shabalala**

**Acting Secretary**

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



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Our Ref: Mr. D Mantsha LM0257/18/C

Your Ref: Ms B.K Shabalala / Ms L. Buthelezi  
 Att: Ms. B.K Shabalala  
 Acting Secretary of the Commission of Inquiry  
 Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Att: Adv Pretorius SC  
 Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)  
 And to: [ShannonV@commissionsc.org.za](mailto:ShannonV@commissionsc.org.za)

Date: 12 September 2019

**PRIVATE AND CONFIDENTIAL  
 (URGENT)**

Dear Sir/Madam,

**RE: THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE  
 CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR  
 INCLUDING ORGANS OF THE STATE ("THE COMMISSION")**

1. We refer to your letter dated 11 September 2019.
2. We reiterate and stand by content of paragraph 4.1 of our letter dated 04 September 2019.
3. Our client is currently in the process of preparing the answers to your questions, we trust that you appreciate that he needs to consult some of the persons whom he has worked with, in order to provide such answers to your questions.

Director: Lugisani Mantsha Bjuris, LLB  
 Lugisani Mantsha Incorporated Reg: 2012/069234/21

M. A.

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4. As soon as that process is complete, he will provide his answers.

Yours faithfully

**Mr. L.D Mantsha**  
Transmitted electronically without signature

---

Director: Lugisani Mantsha Bjunis, LLB  
Lugisani Mantsha Incorporated Reg: 2012/069234/21



M A .

SEQ 01/2020-073

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Our Ref: Mr. D Mantsha LM0257/18/C

Your ref: Ms B.K Shabalala / Ms L. Buthelezi  
 Att The Chairperson of the Commission of Inquiry  
 Att: Ms. B.K Shabalala  
 Acting Secretary of the Commission of Inquiry  
 Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Att: Adv Pretorius SC  
 Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)  
 And to: [ShannonV@commissionsc.org.za](mailto:ShannonV@commissionsc.org.za)

Date: 17 September 2019

**PRIVATE AND CONFIDENTIAL**  
**(URGENT)**

Dear Sir/Madam,

**RE: THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE  
 CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR  
 INCLUDING ORGANS OF THE STATE ("THE COMMISSION")**

1. We refer to the above matter and your letter dated 13 September 2019.
2. Our client is scheduled to appear in the criminal court in the Pietermaritzburg High Court during the week of 14 October 2019, and therefore the proposed dates of 14 to 25 October 2019 are not suitable to him.

Director: Lugisani Mantsha BJuris, LLB  
 Lugisani Mantsha Incorporated Reg: 2012/069234/21

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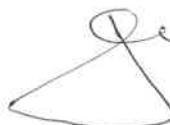
3. Our client will attend the Commission hearing on the week of the 11 to 15 November 2019 as proposed to proceed with his evidence.
4. The explanation given as reason for your apology is contrary to your letter dated the 11 September 2019, and further email from your office dated the 11 of September 2019 which was sent to us at 12:57.

Yours faithfully

**Mr. L.D Mantsha**  
Transmitted electronically without signature

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Director: Lugisani Mantsha Bjure, LLB  
Lugisani Mantsha Incorporated Reg: 2012/089234/21



M-A

SEQ 01/2020-076

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

27 September 2019

Our reference:  
Your reference:

Ms. KB Shabalala / Ms. L. Buthelezi  
Mr. D. Mantsha LM0257/18/C

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ATT: Mr D Mantsha

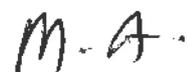
Dear Sir

**THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF  
STATE ("THE COMMISSION") // FORMER PRESIDENT MR. J.G. ZUMA ("Your  
Client")**

1. In terms of the agreement that was announced by the Chairperson of the Commission on the 19<sup>th</sup> July 2019:

M-A

- (a) the Commission's Legal Team was required to furnish the former President's Counsel with its "areas of interest" in the various affidavits within a week;
- (b) Adv Pretorius and the former President's Counsel (Adv Sikhakhane) were required to agree within two weeks from 19 July 2019 a timeframe within which the former President would deliver his affidavit(s) responding to the contents of the various affidavits or statements which fall within the areas of interest identified by the Commission's Legal Team in the various affidavits, failing which they would report this to the Chairperson who would then determine the timeframe within which the former President had to deliver his affidavits.
2. Adv Pretorius submitted the Commission's Legal Team's "areas of interest" to Adv Sikhakhane on 30 July 2019.
  3. By the middle of August 2019 Adv Pretorius and Adv Sikhakhane had not agreed on any timeframe within which the former President had to deliver his affidavits.
  4. On 27 August 2019, Adv Sikhakhane informed Adv Pretorius that the former President's affidavit(s) would be delivered on 13 September 2019. This communication was not based on any agreement between the two Counsel.
  5. No affidavit(s) by the former President was or were delivered to the Commission on or before 13 September 2019 nor has any been delivered to the Commission to date.
  6. Given the above background, the Chairperson has now issued the following direction:
    - \*1. The former President is directed to deliver to the Commission on or before Friday 4 October 2019 his affidavit(s) contemplated in



the terms of agreement announced by the Chairperson in 'the Commission on 19 July 2019.'

Yours sincerely



**Ms. KB Shabalala**

**ACTING SECRETARY**

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



M. A .

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

27 September 2019

Our reference:  
Your reference:

Ms. KB Shabalala / Ms. L. Buthelezi  
Mr. D. Mantsha LM0257/18/C

Lugisani Mantsha Attorneys  
First Floor  
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[dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)

ATT: Mr D. Mantsha

Dear Sir

**THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF  
STATE ("THE COMMISSION") // FORMER PRESIDENT MR. J.G. ZUMA ("Your  
Client")**

1. We refer to your letter of 17 September 2019.
2. We note that you say in your letter that the former President is scheduled to appear in the Pietermaritzburg High Court during the week of 14 October 2019 but you do not say on which day or days during that week he is required to appear in that Court. You then say that the former President will appear before

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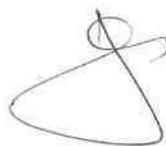
the Commission from 11 to 15 November 2019 but you say nothing about the week of 21 to 25 November 2019 which is the second of the three weeks set aside for the former President's appearance before the Commission.

3. I am directed by the Chairperson to advise that:

(a) he excuses the former President from appearance before the Commission on the day or days on which he is required to appear before the criminal court in Pietermaritzburg but you are required to specify that date or those dates.

(b) In respect of any other dates set aside for the former President's appearance before the Commission on which the former President will not be appearing in the criminal court in Pietermaritzburg, he is not excused from appearance at this stage but, should he wish to be excused, a substantive application should be made to the Commission for an order excusing him from appearance before the Commission on the date or dates in question or for an order varying or amending the dates currently fixed for his appearance before the Commission; in making such an application cogent reasons or good cause should be shown for such an order, particularly bearing in mind that, as things presently stand, the Commission's lifespan goes only up to the end of February 2020 and there are many witnesses and implicated persons whom the Commission must still give an opportunity to testify before it.

(c) If a substantive application such as is referred to in (b) above is delivered to the Commission and is granted by the Chairperson, the former President will not be required to appear on the day or days on which the Chairperson will have excused him from appearing before the Commission; if, however, no application such as is referred to in (b) above is delivered or one is delivered but is dismissed by the Chairperson, the former President will be required to appear before the Commission on all the days on which he will not have been excused from appearing before the Commission.



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Yours sincerely



**Ms. KB Shabalala**

**Acting Secretary**

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



M-A.

SEQ 01/2020-084

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

30 September 2019

Our reference: Ms. KB Shabalala / Ms. L. Buthelezi  
Your reference: Mr. D. Mantsha LM0257/18/C

Lugisani Mantsha Attorneys

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ATT: Mr D Mantsha

Dear Sir

**THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF  
STATE ("THE COMMISSION") // FORMER PRESIDENT MR. J.G. ZUMA ("Your  
Client")**

1. I refer to my letter to you dated 27 September 2019 which dealt with the failure by Mr Pretorius SC and Counsel for the former President to agree on a

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timeframe within which the former President was required to deliver his affidavit(s) in terms of the agreement of 19 July 2019.

2. I am directed by the Chairperson to advise that he has added par 2 to his direction contained in par 6 on page 2 of that letter. Par 2 of the directive reads:

"2. The deadline in 1 above is provisional until 2 October 2019 to allow the former President to make representations on or before 2 October 2019 should there be serious difficulties with complying with the date of the 4 October 2019. Should the former President not deliver any representations on or before 2 October 2019, the date of 4 October 2019 will become final. However, should he make representations on or before 2 October 2019, the Chairperson will decide whether the date of 4 October 2019 will stand or whether it will be changed."

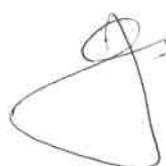
Yours sincerely



Ms. KB Shabalala

**ACTING SECRETARY**

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



M-A

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LUGISANI MANTSHA &amp; ATTORNEYS

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 Box 1127 | Randburg | 2125 |

Our Ref: Mr. D Mantsha LM0257/18/C

Your Ref: Ms B.K Shabalala / Ms L. Buthelezi  
 Att: Ms. B.K Shabalala  
 Acting Secretary of the Commission of Inquiry  
 Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Att: Adv Pretorius SC  
 Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)  
 And to: [ShannonV@commissionsc.org.za](mailto:ShannonV@commissionsc.org.za)

Date: 30 September 2019

**PRIVATE AND CONFIDENTIAL  
 (URGENT)**

Dear Sir/Madam,

**RE: THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF THE STATE ("THE COMMISSION")**

1. We refer to your letter of 27 September 2019, to which we respond in a separate letter.
2. We also refer to our letter dated 16 August 2019, which we attach hereto for ease of reference.
3. Since we previously attached the transcript of the proceedings which reflect the precise directives of the Chairperson, it is unnecessary, for present purposes to

Director: Lugisani Mantsha B Juris, LLB  
 Lugisani Mantsha Incorporated Reg: 2012/069234/21

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reply to each and every statement that has been made in your letter. The precise directives of the Chairperson are self-evident and require no repetition.

4. We had informed you in our letter dated 12 September 2019, that the Former President was in the process of responding to your questions.
5. In this regard, we request your indulgence to provide the commission with the answers thereto by 20 October 2019.

Yours faithfully

**Mr. L.D Mantsha**  
Transmitted electronically without signature

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**Director: Lugisani Mantsha Bjuris, LLB**  
**Lugisani Mantsha Incorporated Reg: 2012/069234/21**



M-A

SEQ 01/2020-094

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Our Ref: Mr. D Mantsha LM0257/18/C

Your Ref: Ms B.K Shabalala / Ms L. Buthelezi  
 Att: Ms. B.K Shabalala  
 Acting Secretary of the Commission of Inquiry  
 Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Att: Adv Pretorius SC  
 Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)  
 And to: [ShannonV@commissionsc.org.za](mailto:ShannonV@commissionsc.org.za)

Date: 30 September 2019

**PRIVATE AND CONFIDENTIAL**  
**(URGENT)**

Dear Sir/Madam,

**RE: THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF THE STATE ("THE COMMISSION")**

1. We refer to your letter of 27 September 2019.
2. We are utterly disappointed that the Commission has reneged on the recorded statement by the Chairperson which he publicly announced at the last day of the former President appearance at the hearing that his next appearance will be arranged, this meant that the Commission and ourselves will agree on suitable dates for his next appearance .

Director: Lugisani Mantsha Bjuris, LLB  
 Lugisani Mantsha Incorporated Reg: 2012/069234/21

M. A.

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3. The Former President's criminal case is postponed to 15 October 2019. As things stand, it is not clear to us what is going to happen hence he is also awaiting for judgement in his application .
4. However, the Former President is still committed to attend the Commission's proceedings during the dates from 11 to 15 November 2019 as per your letter dated 13 September 2019. Your letter dated 13 September 2019 did not propose the dates of 21 to 25 November 2019, and therefore we could not have taken instructions in respect of the said dates.

Yours faithfully

**Mr. L.D Mantsha**  
Transmitted electronically without signature

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**Director: Lugisani Mantsha Bjuris, LLB**  
**Lugisani Mantsha Incorporated Reg: 2012/069234/21**



M.A.

SEQ 01/2020-097

IM27 208



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

04 October 2019

Our reference:  
Your reference:

Ms. KB Shabalala / Ms. L. Buthelezi  
Mr. D. Mantsha LM0257/18/C

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[dan@lugisanimantshaattorneys.co.za](mailto:dan@lugisanimantshaattorneys.co.za)

ATT: Mr D. Mantsha

Dear Sir

**THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE  
("THE COMMISSION") // FORMER PRESIDENT MR. J.G. ZUMA ("Your Client")**

1. I refer to two letters you have sent us dated 30 September 2019 both of which bear the same subject matter. One has four paragraphs while the other has five. I also refer to your letter dated 1 October 2019.
2. All your three letters have been shown to the Chairperson who has directed me to advise as follows in regard to those points that he considers important and to require his attention:

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- 2.1 In Adv Paul Pretorius SC's letter of 30 July 2019 addressed to Adv Sikhakhane SC it was pointed out in par 8 that the Chairperson had determined that 14 to 25 October 2019 and 11 to 15 November 2019 as the dates for the former President's further appearance before the Commission to continue with his evidence; these dates were emphasised in Adv Pretorius SC's letter of 13 September 2019 addressed to you.
- 2.2 It is not true that the terms of the agreement announced by the Chairperson on 19 July 2019 are to the effect that the dates when the former President would return to give evidence before the Commission would have to be agreed; the power to determine dates for appearance by anybody before the Commission vests in the Chairperson; however, once the Chairperson has determined dates for appearance by anybody before the Commission, the person required to appear before the Commission may bring a substantive application for the postponement of the hearing of his or her evidence or the amendment of those dates by the Chairperson where there are good grounds for a postponement or for an amendment of such dates of appearance.
- 2.3 the Chairperson has decided to excuse the former President from appearing before the Commission during the week starting on Monday 14 October 2019 even though the former President might only be required to appear in the criminal court in Pietermaritzburg on one of those five days, namely, 15 October 2019; the Chairperson has done this because he realises that the former President may need Monday 14 October 2019 for travelling in order to be at the criminal court in Pietermaritzburg on 15 October 2019 as well as because he appreciates that the former President may need Wednesday 16 October 2019 to travel from Kwa-Zulu Natal to Gauteng to appear before the Commission; this would leave only Thursday and Friday for his appearance before the Commission during that week; given the Chairperson's current attitude to the former President's appearance before the Commission during the week of 21-25 October 2019, the Chairperson excuses the former President from appearing before the Commission on Thursday 17 and Friday 18 October 2019 in case he may need those days



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for final preparation for his appearance before the Commission the following week, namely the week of 21 to 25 October 2019.

- 2.4 that fact that the Chairperson had included 21-25 October 2019 among the dates for the former President's appearance before the Commission was made clear in Adv Pretorius SC's letter of 30 July 2019 to Adv Sikhakhane SC and in his letter of 13 September 2019 addressed to you; the Chairperson has not excused the former President from appearing before the Commission from 21-25 October 2019 and, if the former President seeks to be excused from such appearance, a substantive application will have to be brought.
- 2.5 It is noted that the former President has committed himself to appearing before the Commission from 11 to 15 November 2019.
- 2.6 with regard to the delivery by the former President of his affidavits contemplated in the agreement of 19 July 2019, the Chairperson notes that the former President has had more than two months to prepare such affidavits; the Commission's Legal Team submitted its "areas of interest" on 30 July 2019; in the circumstances, although the Chairperson has decided to change the deadline of 4 October 2019, he is unable to fix 20 October 2019 for the delivery of such affidavits and has fixed Monday 14 October 2019 as the date for the delivery of such affidavits.
- 2.7 to compensate for the loss of the week of 14 to 18 October 2019, the Chairperson will determine another week in November for the further appearance of the former President before the Commission; that will be in addition to the week in November that has already been indicated.

Yours sincerely



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**Ms. Brigitte Shabalala**

**Acting Secretary**

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

A handwritten signature in black ink, appearing to be a stylized 'S' or similar character.

<sup>4</sup>  
M. A.

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LUGISANI MANTSHA ATTORNEYS

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 Box 1127 | Randburg | 2125 |

Our Ref: Mr. D Mantsha LM0257/18/C

Your Ref: Ms. B.K Shabalala / Ms. L. Buthelezi  
 Att: The Chairperson of the Commission of Inquiry

Att: Ms. B.K Shabalala  
 Acting Secretary of the Commission of Inquiry  
 Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Att: Adv Pretorius SC  
 Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)  
 And to: [ShannonV@commissionsc.org.za](mailto:ShannonV@commissionsc.org.za)

Date: 15 October 2019

**PRIVATE AND CONFIDENTIAL**

**"URGENT"**

Dear Sir/Madam,

**RE: THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF THE STATE ("THE COMMISSION") // FORMER PRESIDENT MR. J.G. ZUMA**

1. We refer to the above matter and our previous correspondences wherein, we stated that in light of the then impending decision in respect of the former President's application for the permanent stay, we were not in a position to confirm the proposed dates of his appearance in the month of October.

Director: Lugisani Mantsha Bjuris, LLB  
 Lugisani Mantsha Incorporated Reg: 2012/069234/21

M. A.

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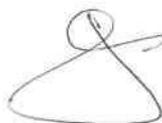
2. Our client has now received a judgment in his permanent stay application which he had informed the court today the 15 October 2019, that he is appealing the said judgment.
3. He is therefore required to submit his application for leave to appeal by 01 November 2019 and argue his application later during the month of November.
4. As a result of these events, our client and his legal team are not available to attend the proposed sitting of the Commission in October.

Yours Faithfully

**Mr. L.D Mantsha**  
Transmitted electronically without signature

---

Director: Lugeani Mantsha Bjuris, LLB  
Lugisani Mantsha Incorporated Reg: 2012/069234/21



M-A.

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 Box 1127 | Randburg | 2125

Our Ref: Mr. D Mantsha LM0257/18/C

Chairperson of the Commission of Inquiry into State Capture  
 2<sup>nd</sup> Floor Hillside House  
 17 Empire Road  
 Parktown  
 Johannesburg  
 2193

By hand

Date: 01 November 2019

**PRIVATE AND CONFIDENTIAL**  
**"URGENT"**

Dear Chairperson,

**RE: THE FORMER PRESIDENT MR. J.G ZUMA**

1. We refer to the above matter and advise that former President was admitted in Hospital over the past weekend and was released late afternoon yesterday for him to continue treatment at his home.
2. The former President asked us to convey to you that due to the above he will not be able to attend the scheduled sitting of the Commission commencing on 11 November 2019 to 15 November 2019, he will however keep you updated on his recovery progress.

Director: Lugisani Mantsha Bjuris, LLB  
 Lugisani Mantsha Incorporated Reg: 2012/069234/21

M-A

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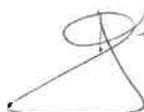
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Yours Faithfully

Mr. L.D Mantsha

---

Director: Lugisani Mantsha Bjure, LLB  
Lugisani Mantsha Incorporated Reg: 2012/069234/21



M.A.

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

17 December 2019

Lugisani Mantsha Attorneys  
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Your Ref: Mr D Mantsha LM0257/18/C

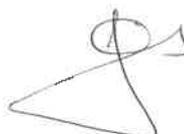
Dear Mr Mantsha

**Further testimony of the Former President Mr J.G Zuma**

1. This letter is addressed to you as representing former President Jacob Zuma ("Mr Zuma") on behalf of the legal team of the State Capture Commission. It follows your client's failure to appear at the hearings of the Commission for separate periods of three weeks during October and November 2019.

M-A

2. The following facts relevant to engagements between the Commission and Mr Zuma are placed on record:
- 2.1. Since the commencement of the hearings of the Commission in August 2018, several witnesses have given evidence concerning and implicating Mr Zuma;
- 2.2. On each such occasion, a notice in terms of the Commission Rules has been issued to Mr Zuma setting out details of the evidence implicating Mr Zuma and inviting him to respond by making application to put his own version of the relevant allegations before the Commission and to cross-examine the relevant witnesses;
- 2.3. In respect of some 23 notices so issued, Mr Zuma has declined to make any application to put his own version in response to allegations made against and concerning him and to cross-examine the relevant witnesses;
- 2.4. On 13 September 2018, the Chairperson, at a public hearing, invited Mr Zuma to assist the Commission by deposing to an affidavit to respond to allegations relating to him made by Ms Mabel Mentor and Mr Themba Maseko. This invitation was extended to Mr Zuma notwithstanding Mr Zuma's view that he had not yet been implicated by any evidence before the Commission. Mr Zuma's attorneys, who were present at the relevant hearing, undertook to convey the invitation to him;
- 2.5. On 11 October 2018, the Commission was informed in writing by yourselves that Mr Zuma was attending to the matter and that you had written to the Presidency requesting to be provided with the necessary records so that he



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could assist the Commission and revert thereafter;

- 2.6. On 26 April 2019, the Chairperson addressed a letter to yourselves to note the Commission's "deep concern" that despite the passage of time of more than seven months since the invitation and more than six months since the letter of 11 October 2018, Mr Zuma had not complied with the Chairperson's request and had not provided reasons for such failure;
- 2.7. To date, Mr Zuma has not provided the affidavit requested;
- 2.8. On 2 May 2019, the Chairperson addressed a letter dated 30 April 2019 to yourselves to set aside time for him to appear before the Commission in order to:
- "(a) give his side of the story on the evidence given by various witnesses in which his name has been mentioned or in which he has been implicated in one way or another;*
- (b) to answer such questions as the Chairperson and/or representative of the Commission's Legal Team or a Commission's evidence leader may wish to put to him about matters which are the subject of the Commission's Inquiry.*

The letter further clarified that *"the questions that Mr Zuma will be asked will cover matters dealt with by certain witnesses who have given evidence before the Commission in so far as he may have knowledge thereof as well as any other matters that fall within the terms of reference of the Commission."* To such end, the dates of 15 to 19 July 2019 were proposed




as appearance dates for Mr Zuma.

- 2.9. A further letter attaching a list of witnesses in regard to whose evidence Mr Zuma would be asked questions was sent to yourselves on 6 May 2019;
- 2.10. On 20 June 2019, a letter was sent to yourselves stating, amongst other things, the following:
- "3. For your client's appearance on 15 to 19 July 2019 the Commission requires your client to testify on the issues or matters covered by the statements or affidavits of the witnesses whose names have been provided to you and in so far as those statements or affidavits refer to, or, relate to, him in one way or another. The questions that he will be asked will also fall within that scope. To the extent that the impression may have been created in previous correspondence that some of the questions could fall outside that scope, it is hereby confirmed that that will not be the case. Accordingly, your client knows what the issues or matters are on which his evidence is required and on which he will be asked questions on the witness stand." (own emphasis)*
- 2.11. On 24 June 2019, Mr Zuma undertook in writing to appear before the Commission from 15 July 2019 to 19 July 2019;
- 2.12. During the week commencing 15 July 2019 and in response to the invitation by the Chairperson, Mr Zuma appeared before the Commission and gave evidence for approximately three days;
- 2.13. On 19 July 2019, the Chairperson confirmed, in a public hearing of the Commission, an arrangement agreed in Chambers. In summary, the agreed



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arrangement was to the following effect:

- 2.13.1. the decision that Mr Zuma would no longer participate in the proceedings was withdrawn;
- 2.13.2. Mr Zuma and his legal team wished to continue to cooperate with the Commission;
- 2.13.3. to address Mr Zuma's concerns, the Commission's legal team would inform Mr Zuma's legal team of the Commission's "areas of interest" in relation to each witness statement or affidavit on which the Commission required Mr Zuma to testify. Thereafter, Mr Zuma would provide an affidavit, through his legal team, that provided his version to the identified "areas of interest";
- 2.13.4. the Commission's legal team would provide the "areas of interest" document to Mr Zuma's counsel within two weeks from 19 July 2019. Counsel for the Commission and counsel for Mr Zuma would meet to agree on the timeframes within which Mr Zuma would respond with his affidavit(s) in response to the "areas of interest";
- 2.13.5. if the parties were not able to agree on such timeframes between themselves, the parties would approach the Chairperson who would hear both sides and decide the applicable timeframes;
- 2.13.6. it was contemplated between the parties that Mr Zuma would return to the Commission to give further evidence following the above exchanges. The above process was contemplated as possibly



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shortening the time period required for Mr Zuma's further testimony.

- 2.14. Pursuant to the agreed arrangement and on 30 July 2019, the writer addressed an email to Adv Muzi Sikhakhane SC representing Mr Zuma. To this email was attached a letter which set out the "areas of interest" which the Commission required Mr Zuma to address in an affidavit and in subsequent evidence. The letter also informed Mr Zuma that the Chairperson had directed that Mr Zuma should return to give evidence before the Commission from 14 October 2019 to 25 October 2019 and then from 11 November 2019 to 15 November 2019. Adv Muzi Sikhakhane SC confirmed receipt of the email on the same day;
- 2.15. In a letter dated 16 August 2019, you informed the Commission, amongst other things, that you were *"in the process of responding to the issues raised"* in the letter of 30 July 2019;
- 2.16. On 27 August 2019, Advocate Sikhakhane SC addressed a WhatsApp note to the writer as follows:
- "I have had a consultation with Zuma's attorney and he tells me that you will receive the response on or before 13 September 2019."*
- 2.17. To date, no such response has been received;
- 2.18. On 10 September 2019, a letter was addressed to yourselves which confirmed that the Chairperson had determined the dates of 14 October 2019 to 25 October 2019 and 11 November 2019 to 15 November 2019 for Mr Zuma's next appearance before the Commission. The letter also directed



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that such dates would stand unless changed by the Chairperson, which he had the power to do if sound and cogent reasons were provided to him;

- 2.19. On 11 September 2019, the writer addressed a letter to yourselves which, amongst other things, reminded you that the Chairperson still required Mr Zuma's response to the "areas of interest" letter dated 30 July 2019 (erroneously typed as "03<sup>rd</sup>" July 2019);
- 2.20. On 12 September 2019, you replied to the writer's letter of 11 September 2019 by informing the Commission that "*[o]ur client is currently in the process of preparing the answers to your questions, we trust that you appreciate that he needs to consult some of the persons whom he has worked with, in order to provide such answers to your questions. As soon as that process is complete, he will provide his answers.*"
- 2.21. By way of a letter dated 13 September 2019, Mr Zuma was requested, through yourselves, to confirm that he would appear before the Commission on the hearing dates of 14 October 2019 to 25 October 2019 and from 11 November 2019 to 15 November 2019.
- 2.22. Mr Zuma did not appear as directed.
- 2.23. On 17 September 2019, you wrote to the Commission informing it that "*...[o]ur client is scheduled to appear in the criminal court in the Pietermaritzburg High Court during the week of 14 October 2019, and therefore the proposed dates of 14 to 25 October 2019 are not suitable to him.*" Your letter also recorded that "*our client will attend the Commission hearing on the week of the 11 to 15 November 2015 as proposed to proceed*

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M. A.

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*with his evidence*".

2.24. On 30 September 2018, an email attaching a letter dated 27 September 2019 was forwarded to yourselves which contained, amongst other things, the Chairperson's following directive:

*"1. The former President is directed to deliver to the Commission on or before Friday 4 October 2019 his affidavit(s) contemplated in the terms of agreement announced by the Chairperson in the Commission on 19 July 2019."*

2.25. On 30 September, an additional directive was added to the above in the form of a letter which read:

*"2. The deadline in 1 above is provisional until 2 October 2019 to allow the former President to make representations on or before 2 October 2019 should there be serious difficulties with complying with the date of the 4 October 2019. Should the former President not deliver any representations on or before 2 October 2019, the date of 4 October 2019 will become final. However, should he make representations on or before 2 October 2019, the Chairperson will decide whether the date of 4 October 2019 will stand or whether it will be changed."*

2.26. On 30 September 2019, a further letter dated 27 September 2019 was emailed to yourselves. On the directive of the Chairperson, Mr Zuma was informed that he was (a) excused from appearing on the day(s) on which he was required to appear before the criminal court in Pietermaritzburg; and (b) not excused from attending the Commission on all other hearing dates



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- set aside unless the Chairperson excused him from appearing and on substantive application being made by him.
- 2.27. On 30 September 2019, you reminded the Commission of your letters dated 16 August 2019 and 12 September 2019 which informed it that Mr Zuma was in the process of responding to the "areas of interest" document. A further indulgence to provide his answers thereto was requested until 20 October 2019.
- 2.28. By way of a letter from yourselves dated 30 September 2019, Mr Zuma confirmed his commitment to appear before the Commission from 11 November 2019 to 15 November 2019.
- 2.29. On 4 October 2019, the Chairperson issued a directive which may be summarised as follows: (a) that Mr Zuma is excused from appearing before the Commission during the week starting 14 October 2019; (b) that Mr Zuma is required to appear before the Commission from 21 October 2019 to 25 October 2019; (c) that it is noted that Mr Zuma has committed to appearing before the Commission from 11 November 2019 to 15 November 2019; (d) that the date of 14 October 2019 is the new date by which Mr Zuma is required to deliver his affidavit(s) dealing with the "areas of interest"; and (e) that the Chairperson will determine another week in November 2019 for the loss of the week of appearance of 14 October 2019 to 18 October 2019.
- 2.30. On 15 October 2019, you informed the Commission by letter that neither Mr Zuma nor his legal team were available to attend the proposed sitting of the Commission in October 2019 for the following reasons:



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- "1. ...[T]hat in light of the impending decision in respect of the former President's application for the permanent stay, we are not in a position to confirm the proposed dates of his appearance in the month of October.
2. Our client has now received a judgment in his permanent stay application which he had informed the court today the 15 October 2019, that he is appealing the said judgment.
3. He is therefore required to submit his application for leave to appeal by 01 November 2019 and argue his application later during the month of November."

2.31 On 1 November 2019, Mr Zuma informed the Commission, through yourselves, that he would not be able to attend the scheduled sitting of the Commission from 11 November 2019 to 15 November 2019 for the following reasons:

- "1. ...[F]ormer President was admitted in Hospital over the past weekend and was released late afternoon yesterday for him to continue treatment at his home.
2. The former President asked us to convey to you that due to the above he will not be able to attend the scheduled sitting of the Commission commencing on 11 November 2019 to 15 November 2019, he will however keep you updated on his recovery progress."



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3. In the view of the writer, none of the issues raised and referred to in the previous paragraph, derogates from the views expressed and the conclusion reached in this letter.
4. The above record of events is a matter of material concern for the legal team of the Commission. First, the inability of the Commission to secure the attendance of Mr Zuma to continue evidence before the Commission is hampering the work of the Commission. Second, and in particular, the refusal or failure to submit an affidavit in response to the "areas of interest" communication of 30 July 2019 is a breach of the arrangement agreed and referred to above. Third, the loss of three weeks hearing time is something the Commission can ill afford both in relation to time and the costs involved. Finally it is noted that despite the Chairperson's various directives, you have failed or refused to approach him by way of formal applications to seek rulings excusing non-compliance with his directives.
5. What is clear from all the above, is that new measures are required to enable the Commission:
  - 5.1. to hear Mr Zuma's version in regard to matters raised in evidence concerning him and which implicates him;
  - 5.2. to question Mr Zuma in regard to those matters;
  - 5.3. generally to conclude the work of the Commission comprehensively and efficiently and in accordance with a reliable and practicable timetable.
6. In order to achieve this, it has been decided by the legal team as follows:



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- 6.1. an application will be made to the Chairperson to compel Mr Zuma to appear before the Commission on dates to be specified. A notice of application will be served on yourself in due course. The application will ask the Chairperson to authorise the issue of a summons in terms of the provisions of the Commissions Act of 1947 to appear before the Commission and be examined from 27 January 2020 to 31 January 2020, both dates inclusive. This application will be set down for hearing before the Chairperson at 10h00am on Tuesday, 14 January 2020.
- 6.2. no further "areas of interest" communications will be addressed to Mr Zuma;
- 6.3. since he gave evidence in July 2019, Mr Zuma has been provided with a number of affidavits of witnesses who have given evidence or who will give evidence concerning him and in respect of which the Commission requires to hear his version and to question him. Mr Zuma has also been provided with notices in terms of Rule 3.3 of the Commission's rules where his attention has been drawn to evidence led or to be led before the Commission, which evidence implicates him. Mr Zuma will be requested to consider this evidence and to prepare himself to answer questions thereon before returning to the Commission to conclude his evidence;
- 6.4. documentation containing the results of the Commission's investigations into matters relevant to Mr Zuma's evidence may be provided to Mr Zuma in due course. However Mr Zuma will be given adequate opportunity to prepare himself to respond thereto.
7. Please regard the contents of this letter, and in particular paragraph 6.1 above, as due notice of the contemplated application.



M-A.

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**PJ PRETORIUS**  
**Head of the Legal Team**

**Judicial Commission of Inquiry into Allegations  
of State Capture, Corruption and Fraud  
in the Public Sector including Organs of State**



M. A.

SEQ 01/2020-003

IM31



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

**NOTICE OF APPLICATION**

**TAKE NOTICE THAT** the Legal Team of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (*"the Commission"*) intends applying to the Chairperson at 10h00 on **Tuesday, 14 January 2020**, or so soon thereafter as the matter may be heard for an order in the following terms:

1. Directing and authorising the Acting Secretary of the Commission to sign and issue a summons in respect of the Respondent, the former President, Mr Jacob Gedieyihlekisa Zuma (*"Mr Zuma"*), in the form of and in terms of annexure 'A' hereto;
2. Directing that the summons be made subject to such conditions or directives as the Chairperson may determine; and
3. Granting further, other or alternative relief.

**TAKE NOTICE FURTHER** that should the Respondent wish to oppose this application he should notify the Acting Secretary of the Commission on or before 6 January 2020, and at the same time deliver an affidavit to the Acting Secretary, setting out the grounds of such opposition and the facts relevant thereto.

M.A.

SEQ 01/2020-004

**TAKE NOTICE FURTHER** that the affidavit of **MS KWEZI BRIGITTE SHABALALA** attached hereto will be used in support of this application.

DATED AT PARKTOWN ON THIS 19<sup>th</sup> DAY OF DECEMBER 2019.

*P.P. Pretorius*  
 P.P. PRETORIUS  
 Head of the Legal Team

**TO : The Honourable Chairperson**  
 The Judicial Commission of Inquiry into  
 Allegations of State Capture, Corruption  
 and Fraud in the Public Sector including  
 Organs of State  
 Hillside House  
 17 Empire Road, Parktown

**AND TO : Mr. J.G. Zuma c/o Lugisani Mantsha Attorneys**  
 First Floor, Burnside Island  
 Block 6, 410 Jan Smuts Avenue  
 Craighall  
 Johannesburg

Ref: Mr D Mantsha LW0257/18/C

By E-mail: [info@lugisanimantshaattorneys.co.za](mailto:info@lugisanimantshaattorneys.co.za) &  
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M. A.

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LUGISANI MANTSHA ATTORNEYS

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 Box 1177 | Randburg | 2125

Our Ref: Mr. D Mantsha LM0257/18/C

The Chairperson of the Commission of Inquiry

C/O Ms. B.K Shabalala  
 Acting Secretary of the Commission of Inquiry  
 Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Date: 06 January 2020

PRIVATE AND CONFIDENTIAL

"URGENT"

Dear Sir/Madam,

RE: NOTICE OF INTENTION TO OPPOSE - FORMER PRESIDENT JACOB ZUMA

1. We refer to the above matter and your letter of 19 December 2019 and advise you that our offices had been closed from 13 December 2019 and reopened today, the 06<sup>th</sup> January 2020.
2. We enclose herewith, the Former President's Notice of Intention to Oppose your application.
3. Furthermore, be advised that our client will have his affidavit served on you before close of business on 10 January 2020.

Yours Faithfully

Mr. L.D Mantsha  
 Transmitted electronically without signature

Director: Lugisani Mantsha BJuris, LLB  
 Lugisani Mantsha Incorporated Reg: 2012/069234/21

M. A.

SEQ 01/2020-243



LUGISANI MANTSHA ATTORNEYS

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 Box 1127 | Randburg | 2125 |

Our Ref: Mr. D Mantsha LM0257/18/C

The Chairperson of the Commission of Inquiry

C/O Ms. B.K Shabalala  
 Acting Secretary of the Commission of Inquiry  
 Per email: [BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Date: 10 January 2020

**PRIVATE AND CONFIDENTIAL**

**"URGENT"**

Dear Sir/Madam,

**RE: JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE: MR. JACOB ZUMA**

1. We refer to the above matter and our letter dated 06 January 2020.
2. We advise that we will not be able to serve our client's affidavit due to the fact that our client underwent a medical surgery procedure on the 6 and 09 January 2020, we will endeavour to provide you with his affidavit on or before the 14 January 2020.

Yours Faithfully

**Mr. L.D Mantsha**  
 Transmitted electronically without signature

**CC: Adv Pretorius SC**  
 Per email: [Ppretorius@commissionsc.org.za](mailto:Ppretorius@commissionsc.org.za)  
 And to: [ShannonV@commissionsc.org.za](mailto:ShannonV@commissionsc.org.za)

Director: Lugisani Mantsha B Juris, LLB  
 Lugisani Mantsha Incorporated Reg: 2012/069234/21

M. A

SEQ 01/2020-740

IM34



2<sup>nd</sup> Floor, Hillside House  
17 Empire Road  
Parktown  
Johannesburg  
2193

Tel: (010) 214-0651

Email:

[inquiries@sastatecapture.org.za](mailto:inquiries@sastatecapture.org.za)

Website:

[www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

10 August 2020

Our reference: Farrhah Khan

Eric Mabuza Attorneys  
1<sup>st</sup> Floor  
83 Central Street  
Houghton  
2198  
Email: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za) / [rudolph@mabuzas.co.za](mailto:rudolph@mabuzas.co.za)

Dear Sir

**Re: Appearance by Mr JG Zuma before the Commission:**

**Dates and time of hearing: 21 to 25 September 2020 at 10h00**

**Venue: City of Johannesburg Old Council Chambers, 158 Civic Boulevard,  
Braamfontein**

1. You are hereby notified that the Chairperson of the Commission has determined 21 to 25 September 2020 (both dates inclusive) as the dates for the appearance of your client, Mr JG Zuma, before the Commission. The address of the venue is reflected above. The proceedings will start at 10h00 on each day unless the Chairperson directs otherwise. You are accordingly requested to advise your client of the above dates.

M. A.

SEQ 01/2020-741

2. Your client will be questioned on matters covered by the various affidavits which have previously been furnished to him by the Commission. It is, therefore, of paramount importance that your client reads all the affidavits furnished to him in the past so that he will be in a position to deal with any issues on which he may be questioned during the hearing.
3. The Commission is aware of public statements made by Mr Eric Mabuza representing Mr Zuma two months or so ago to the effect that Mr Zuma is ready for his criminal trial. The Commission understands this to mean that Mr Zuma would also be ready to appear before the Commission.
4. With regard to the previous arrangement to the effect that the leader of Mr Zuma's medical team would meet with the Chairperson in order to inform the Chairperson of the health condition on which Mr Zuma previously relied to justify his failure to appear before the Commission, the Chairperson advises that, as he is not a medical doctor, it will be necessary that an appropriately qualified doctor should attend that meeting in order to advise the Chairperson. Without the benefit of advice by an appropriately qualified medical doctor, the Chairperson may not be able to understand the implications or effects of the health condition on Mr Zuma. Please confirm that this is acceptable so that arrangements can be made for that meeting to take place soon. The hearing scheduled for the dates given above will not depend upon the holding or successful holding of the meeting involving the Chairperson and the leader of Mr Zuma's medical team.
5. You are advised that the Commission reserves its right to take steps to compel Mr Zuma to appear before the Commission on the days given above should it consider it necessary or appropriate to do so.

Your cooperation will be hugely appreciated.

Yours sincerely



Ms KB Shabalala

Acting Secretary: Commission of Inquiry Into State Capture



M.A.

SEQ 01/2020-743

**IM35**

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

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18 August 2020

Eric Mabuza Attorneys  
1<sup>st</sup> Floor  
83 Central Street  
Houghton  
2198

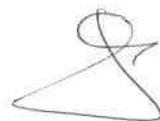
E-mail: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za) / [rudolph@mabuzas.co.za](mailto:rudolph@mabuzas.co.za)

Dear Sir

**Re: Mr JG Zuma's next appearance before the Commission**

1. I write this letter on the instruction of the Head of the Commission's Legal Team, Adv PJ Pretorius SC.
2. Mr Pretorius has taken note that the Chairperson has determined 21 to 25 September 2020 (both dates inclusive) as the dates for Mr JG Zuma's next appearance before the Commission. If you have not received the notification to that effect, you should receive it any time from now.

3. It is important and urgent that the application brought by the Commission's Legal Team for the Chairperson to authorise the issuing of a summons against Mr Zuma which has been pending for a number of months be determined without delay. The matter is ripe for hearing. You will soon be notified of the date when that application will be heard.
4. You are notified that at the hearing of Mr Zuma's further evidence, Mr Zuma will be questioned on any matter or issue dealt with in the affidavits that have been served on him or his attorneys.
5. With regard to the agreement reached on the 19<sup>th</sup> July 2019 between Mr Zuma's legal team and the Commission's Legal Team that the latter would advise Mr Zuma's legal team of their areas of interest in the various affidavits on which questions would be based, you are hereby notified that the Commission's Legal Team believes that they are no longer bound by that agreement because Mr Zuma and his legal team failed to honour their part of the agreement. In terms of the agreement Mr Zuma was supposed to have furnished the Commission with his affidavits giving his versions on the areas of interest identified by the Commission's Legal Team in the various affidavits. To date no such affidavits have been furnished to the Commission. In fact a whole year has lapsed since that agreement and Mr Zuma has failed to furnish the Commission with any affidavit contemplated in that agreement. In the circumstances, in preparing for the hearing Mr Zuma must know that he may be questioned on any aspects of the matters covered by the affidavits furnished to him so far which may be supplemented in due course.
6. To avoid any confusion, the following are the names of the persons whose affidavits have been sent to Mr Zuma or his attorney thus far on which he will be questioned at the next hearing:
  - 6.1 Themba Mveli James Maseko
  - 6.2 Mabel Patronella Mentor
  - 6.3 Nhlanhla Musa Nene
  - 6.4 Pravin Gordhan



SEQ 01/2020-745

- 6.5 Barbara Hogan
- 6.6 Ngoako Abel Ramatlhodi
- 6.7 Mahlodi Sam Muofhe
- 6.8 Fikile Mbalula
- 6.9 Angelo Agrizzi
- 6.10 Mxolisi Sandile Oliver Nxasana
- 6.11 Brent Adrian Simons
- 6.12 Abegnigo Hlungwani
- 6.13 Mellswe Mildred Oliphant
- 6.14 Makaringe Richard Baloyi
- 6.15 Yasmin Duarte
- 6.16 Samson Gwede Mantashe
- 6.17 Zwelini Lawrence Mkhize
- 6.18 Rajesh Sundaram
- 6.19 Miriam Phumla Williams
- 6.20 Sphiwe Nyanda
- 6.21 Trevor Andrew Manuel
- 6.22 Johan Wessel Booysen
- 6.23 Nonkululeko Sindane
- 6.24 Kobus Demeyer Roelofse
- 6.25 Lizo Njenje
- 6.26 Rieaz Shaik
- 6.27 Ronald Shingange
- 6.28 Mr Y
- 6.29 Abdurrazack "Zackie" Achmat
- 6.30 Popo Simon Molefe

7. A copy of the latest Index<sup>1</sup> to the Bundles sent in this matter is attached.

8. Your cooperation will be highly appreciated.

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<sup>1</sup> Dated 26 March 2020



Yours faithfully



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**MS B SHABALALA**  
**Acting Secretary**  
**Judicial Commission of Inquiry into Allegations**  
**of State Capture, Corruption and Fraud in the**  
**Public Sector including Organs of State**



M. A . 4

SEQ 01/2020-770



IM36

Att: Ms KB Shabalala  
 Acting Secretary: Commission of Inquiry into State Capture  
 Hillside House, 3<sup>rd</sup> Floor  
 17 Empire Road  
 Parktown

1<sup>st</sup> Floor  
 83 Central Street  
 Houghton  
 2198  
 PO Box 55045  
 Northlands 2116  
 Tel: +27 11 483-2387/483-0478  
 Fax: +27 11 728 - 0145  
 Direct e-mail: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)

Email: [BrigitteS@commissionsc.org.za](mailto:BrigitteS@commissionsc.org.za)

Your Ref: Farhan Khan  
 Our Ref: Mr ET Mabuza  
 Date: Sunday, August 30, 2020

Dear Madam,

**Notice of set down - President JG Zuma**

1. We refer to your letter dated 28 August 2020.
2. We regret to inform you that due to prior commitments our counsel are not available on 9 September 2020.
3. We trust that you will reschedule the hearing of the application to another date suitable to all the parties.
4. All our client's rights are reserved.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Eric T. Mabuza', written over a large, light-colored scribble.

**MABUZA ATTORNEYS**

Eric T Mabuza B.Proc (Unik) LLB (Wits) - Senior Associate Rudolph N Belyoi LLB (UL) - Zondwe Longwe LLB (Wits) - Thomas Sibuyi LLB (UNISA)

4 Mzuphela GM Yeko B.Proc (UNSTRA)

A large, stylized handwritten signature in black ink, possibly reading 'JG Zuma'.

M - A .

SEQ 01/2020-772



IM37

Att: Ms KB Shabalala  
 Acting Secretary: Commission of Inquiry into State Capture  
 Hillside House, 3<sup>rd</sup> Floor  
 17 Empire Road  
 Parktown

1<sup>st</sup> Floor  
 83 Central Street  
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 PO Box 55045  
 Northlands 2116  
 Tel: +27 11 483-2387/483-0476  
 Fax: +27 11 728 - 0145  
 Direct e-mail: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)

Email: [BrigitteS@commissionsc.org.za](mailto:BrigitteS@commissionsc.org.za)

Your Ref: Farhan Khan  
 Our Ref: Mr ET Mabuza  
 Date: Tuesday, September 01, 2020

Dear Madam,

#### Appearance by President JG Zuma before the Commission

1. We act on behalf of former President JG Zuma ("President Zuma"), and refer to your letters dated 10 and 18 August 2020 respectively.
2. At the outset, we wish to put it on record that we have just been recently appointed by President Zuma to assist him in respect of the Commission. At this stage, we still need to familiarize ourselves with all the documentation with which President Zuma was served dating back to when the Commission started. We assure the Commission that we are working hard at this and intend to fully engage counsel about President Zuma's previous appearance at the Commission as well as the totality of the evidence to which he is asked to respond. We also intend engaging counsel about their availability going forward, given the fact that they have been briefed to prepare for the trial and other pending matters involving President Zuma.
3. We noted from the Commission's letter that rather than engage us, it has relied on the media to determine when President Zuma should appear at the Commission. We are of the view that the availability of President Zuma could easily have been discussed or verified with us before the Commission made its own (incorrect)

Eric T Mabuza B.Proc (Unin) LLB (Wits) ⚡ Senior Associates Rudolph N Baloyi LLB (UL) ⚡ Zondiwe Longwe LLB (Wits) ⚡ Thomas Sibuyi LLB (UNISA)

⚡ Maphela GM Yeko B.Proc (UNITRA)

assumptions about his availability or our own readiness as the new attorneys in the matter.

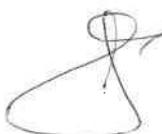
4. We note that the Commission has finally given formal notice of its intention to proceed with the application to compel President Zuma to appear. It should follow that we must await the outcome of that application before we can discuss the possible appearance of President Zuma at the Commission. We trust that the Commission will engage with us regarding the dates for the hearing of the application.
5. Further, we wish to point out that President Zuma is preparing for his much-anticipated criminal trial, the importance of which cannot be over-emphasized. It is rather unfair to expect President Zuma to simultaneously consider evidence and affidavits of more than 30 witnesses in order to make himself ready to appear before the Commission on 21–25 September 2020. Equally, as his new attorneys of record, we must be afforded sufficient time to consider all the evidence, consult with counsel and President Zuma, in order to offer him proper advice on the way forward.
6. President Zuma is also engaged in several other cases which require his full attention. It must be noted further that President Zuma is also of advanced age and given the current Covid-19 pandemic, he has been advised to limit his movements. This has had an impact on our own ability to consult with him in respect of the Commission.
7. We are of the view that at the very least suitable dates should have been discussed with us as his new legal team. We request that future dates, including those of the pending application be discussed with us before they are confirmed, lest our unavailability be interpreted as non-co-operation.
8. We note the threat that the Commission "*reserves its rights to take steps to compel the former President to appear before the Commission*" and consider it unnecessary to respond to it at this stage as it does not assist the process in any way. Instead, it only serves to demonstrate the disdain with which the Commission's legal team



M. A.

treats President Zuma. We do not wish to engage in such exchange of threats as this may only taint the integrity of such an important Commission.

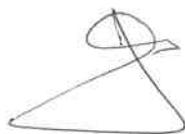
9. We are instructed that the pending application itself was necessitated by the Commission's refusal to believe that President Zuma was indeed out of the country to receive medical attention. As we understand it, the Chairperson of the Commission, Deputy Chief Justice Raymond Zondo undertook or ruled that he would meet President Zuma's medical doctor to verify whatever he did not believe that President Zuma was receiving medical attention in Cuba at the time he was asked to appear before the Commission. We are currently instructed to deal with that application with which the Commission's legal team persist. We also await the outcome of the meeting between the Chairperson and President Zuma's doctor.
10. In our view, over and above other logistical difficulties we face as the new legal team, it is premature to seek to call President Zuma to appear before finalizing the application that is pending before the Commission in respect of the Commission's own application to issue summons / subpoena against President Zuma.
11. Further to the above, President Zuma has raised a concern regarding the implications of the promulgation of Proclamation No 24 of 2020, and is seeking legal advice on the implications thereof on his further participation.
12. In the circumstances, we are instructed to inform the Commission, as we hereby do, that for all the reasons mentioned above President Zuma will not be able to attend the proceedings scheduled on the dates of 21-25 September 2020.
13. We note that the Commission's legal team categorically states that it considers itself no longer bound by the agreement reached between the parties on 19 July 2019.
14. We await your response and, in the meantime, all our client's rights are reserved.



Yours faithfully

A handwritten signature in black ink, appearing to be 'S. Mabuza', written in a cursive style.

**MABUZA ATTORNEYS**

A handwritten signature in black ink, appearing to be 'S. Mabuza', written in a cursive style.

*m. A.*

SEQ 01/2020-782

**IM38**

2<sup>nd</sup> Floor, Hillside House  
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Website:  
[www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

---

Mabuza Attorneys  
83 Central Street, 1<sup>st</sup> Floor  
Houghton  
2198

Email: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)

Dear Sirs

**Re: Application for the authorisation of the issuing of a summons against  
Mr Jacob Zuma**

1. I have been directed by the Chairperson of the Commission to notify you as follows:

1.1 The Chairperson of the Commission has determined the 9<sup>th</sup> October 2020 at 09h00 as the date and time when the above application will be heard. The venue for the hearing is City of Johannesburg Old Council Chamber, 158 Civic Boulevard, Braamfontein.

A handwritten signature in black ink, appearing to be 'M. A.' with a large loop at the end.

M. A.

SEQ 01/2020-783

1.2 If Mr Zuma or his legal representative does not appear on the date and time given above, the application will proceed unless the Chairperson is satisfied that there are good grounds why it should not proceed. If Mr Zuma or his legal representative wishes to present argument remotely on the 9<sup>th</sup> October 2020 and advises the Commission timeously, arrangements will be made for such virtual appearance to happen.

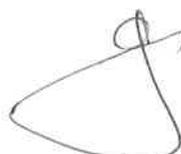
1.3 If Mr Zuma's legal representative approaches the Commission and an agreement is reached for argument to be heard on a date earlier than the 9<sup>th</sup> October 2020 either at 09h00 or during an evening session approved by the Chairperson, the Chairperson will authorise the moving of the hearing to the agreed date and time. However, in the absence of any agreement for the hearing of the application on a date and time earlier than the 9<sup>th</sup> October 2020, the hearing will proceed on the 9<sup>th</sup> October 2020 at 09h00.

1.4 Mr Zuma or his legal representative is free to submit written argument prior to the hearing which the Chairperson would then take into account in deciding the application.

Yours sincerely

PP

  
**Ms KB Shabalala**  
**Acting Secretary**



M-A .

SEQ 01/2020-784



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 Website:  
[www.sastatecapture.org.za](http://www.sastatecapture.org.za)

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

Mabuza Attorneys  
 83 Central Street, 1<sup>st</sup> Floor  
 Houghton  
 2198

Email: [eric@mabuzas.co.za](mailto:eric@mabuzas.co.za)

Dear Sirs

**Re: Mr Jacob Zuma's appearance before the Commission: 16<sup>th</sup> – 20<sup>th</sup>  
 November 2020**

1. You are hereby informed that the Chairperson of the Commission has determine the 16<sup>th</sup> to the 20<sup>th</sup> November 2020 at 10h00 as the next dates for Mr Jacob Zuma's appearance before the Commission.

Yours sincerely

pp

**Ms KB Shabalala  
 Acting Secretary**

SEQ 01/2020-791



IM39

Att: Deputy Chief Justice Zondo  
 Care of Ms Brigitte Shabalala  
 Acting Secretary  
 Judicial Commission of Inquiry into Allegations of  
 State Capture, Corruption and Fraud in the Public  
 Sector including Organs of State  
 2<sup>nd</sup> Floor, Hillside House  
 17 Empire Road  
 P O BOX 55045

1<sup>st</sup> Floor  
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Email: [BrigitteS@commissionsc.org.za](mailto:BrigitteS@commissionsc.org.za)  
[BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

Your Ref:  
 Our Ref: Mr ET Mabuza  
 Date: Monday, September 28, 2020

Dear Chairperson DCJ Zondo,

### Request for the Chairperson's recusal

1. We act on behalf our client, former President Zuma ("President Zuma"), from whom we have instructions to address you on the issues relating to allegations made against him during your widely publicised press conference of 21 September 2020. This also follows two other media briefings in 2019 at which the Chairperson deemed it appropriate to address President Zuma through the media.
2. At the outset, we note that this special focus and targeting of President Zuma has been the hallmark of this Commission's approach since it commenced with its proceedings. As a result, President Zuma views the recent media briefing as a culmination of a series of events by which he was singled out and targeted by the Commission.
3. This media briefing took place without any indication from us that we would not accede to the Chairperson's directives setting the matter down for 9 October 2020 and 16-20 November 2020. It was an unnecessary and premature public rebuke

Eric T Mabuza B.Proc (Unin) LLB (Wits) ◀ Rudolph N Baloyi LLB (UL) ◀ Zondwe Longwe LLB (Wits) ◀ Thomas Sibuyi LLB (UNISA)

◀ Maphela GM Yeko B.Proc (UNITRA)

A large, stylized handwritten signature in black ink is positioned on the left, and the initials "M-A" are written in black ink to its right.

- which, in our respectful view, resides outside the realm of legal processes and judicial comity.
4. While we have also noted the statements made by the Chairperson in the same media briefing regarding his attitude towards President Zuma's legal team, we regard the entire public media exercise inappropriate and bereft of the requisite judicial decorum this process deserves. As a result, we do not deem it appropriate to respond to the Chairperson's statements directed at us as President Zuma's legal representatives.
  5. Accordingly, we confine the contents of this letter to those issues in respect of which we have been instructed by President Zuma.
  6. For the reasons to be fully set out in the application to be made soon, we are instructed to seek your recusal as Chairperson of the Commission on the ground that our client reasonably apprehends that you have already adopted a biased disposition towards him and cannot bring an impartial mind to the issues and evidence that relate to him. President Zuma's conclusion that the Chairperson is no longer capable of exercising an independent and impartial mind is fortified by what he views as the unwarranted public statements made by the Chairperson at the said media briefing.
  7. President Zuma has always expressed his willingness to cooperate with the Commission. This is in spite of his reservations about the legality of the Commission and in particular, your suitability as Chairperson, given your personal relations with him. However, the conduct of the Chairperson towards him has left President Zuma with no choice but to take this step in order to defend his rights as a citizen. President Zuma believes that the Chairperson's conduct has stripped this Commission of its much required and vaunted legitimacy.
  8. Viewed in the context of previous media statements, the conduct of the Chairperson and treatment of President Zuma by the Commission, the Chairperson's utterances



M-A-

have left President Zuma with the distinct impression that the Chairperson seeks to target him for special treatment and public humiliation.

9. President Zuma believes that the source of the Chairperson's bias against him stems from the fact that President and the Chairperson have historical personal, family and professional relations that ought to have been publicly disclosed by the Chairperson before accepting his appointment.
10. Some of the other reasons to be set out in greater detail in the affidavit include the following:
  - 10.1. The Chairperson's election to reserve media conferences for President Zuma attests to the fact that he seeks to portray him as uncooperative and belligerent in the eyes of the public. No other witness has been subjected to such public rebuke through the media□
  - 10.2. It has become commonplace for the Commission to parade a particular narrative through witnesses and to treat certain witnesses, particularly those who implicate President Zuma, with deference. It is apparent to President Zuma that the Commission seeks to entrench a narrative that portrays him as guilty at all costs□
  - 10.3. President Zuma is of the firm view that the Chairperson's bias against him is a result of personal matters and strained relations that the Chairperson ought to have disclosed right at the beginning of the Inquiry□
  - 10.4. The Chairperson, in his engagements with witnesses testifying before him, has already prejudged the very issues he is tasked to investigate. In particular, he has already made prejudicial statements about President Zuma while addressing some witnesses who had made no reference to President Zuma□



M. A.

- 10.5. The Chairperson refused to believe that President Zuma's failure to appear before the Commission early this year was due to his travel to seek medical treatment, again publicly portraying him as a liar and
- 10.6. The Chairperson has joined the narrative that seeks to present President Zuma as the cause of all the corruption he is tasked to investigate.
11. We are working through the record of the Commission's proceedings in order to finalise the application for your recusal, which will be filed in due course. Therein, we will set out in greater detail each of the grounds on the basis of which our client reasonably apprehends that the Chairperson has lost all the requisite impartiality and is biased against him.
12. Until this application for your recusal is finally determined, President Zuma will take no further part in this Commission and the Chairperson is entitled to take any such step as he deems lawful and appropriate. We reiterate that President Zuma has questioned the lawfulness of the establishment of this Commission. He persists with this issue and reserves all his right in this regard.
13. In so far as the Chairperson interprets his own powers to be so absolute that no negotiation is necessary in order to agree appearance dates, we leave it in his capable hands to do as he deems appropriate. We are aware that the Chairperson has already indicated that with or without President Zuma's legal team, he will make his ruling. As a result, our views on the matter have been rendered irrelevant by the Chairperson's statements and he is entitled to take any step or ruling that he deems lawful and appropriate.
14. In the light of the above and the seriousness of the issues, President Zuma will file an affidavit setting out all the facts on the basis of which he seeks your recusal.

Yours faithfully



**MABUZA ATTORNEYS**



M.A.

GG-REFERENCE-051

**AFFIDAVIT****IM40**

I the undersigned, Satheseelan Chetty ID No: 6602065232081 , do hereby make oath and state that:

On the 22/10/2020, approximately 10:15 am, I arrived at Mr J.G Zuma's residence. On arrival, I spoke to a Colonel Dlamini - I introduced myself as Mr Chetty - The Sheriff of Nkandla. I enquired from him if Mr Zuma was in. Colonel Dlamini responded by saying that Mr Zuma was not in. I informed him the purpose of my visit. He told me that he is aware that the Sheriff was coming to serve a court document and was instructed to receive the document on Mr Zuma's behalf. I informed Colonel Dlamini that if Mr Zuma is not in, I would have to serve the document on Mr Zuma's Secretary - Ms N.A Ngcobo.

He tried calling Mr Zuma's Secretary - Ms N.A Ngcobo, but no response. He enquired from the Sergeant that was there, if Ms N.A Ngcobo - Secretary was in, he replied that she was in.

Colonel Dlamini tried calling Ms N.A Ngcobo - Secretary, again and she answered. He told her that the Sheriff was there and needed her to come to the gate and accept the service of the court document.

Ms N.A Ngcobo - Secretary arrived at the gate and I introduced myself to her and explained to her that I need to serve the document on Mr Zuma. I asked her if Mr Zuma was in, she replied yes. I then told her that I need to serve Mr Zuma the document personally, since Mr Zuma was on the premises. Ms N.A Ngcobo responded by saying "no that's not possible". I asked her: "Why?" She said "You can't".

Ms N.A Ngcobo - Secretary, then informed me that she was told by Mr Zuma, to accept the document on his behalf. I then handed over the document to Ms N.A Ngcobo - Secretary and asked her to sign my copy as proof that she accepted same. Ms N.A Ngcobo - Secretary signed my copy and I left the said premises.



*[Signature]* S.P.

*[Signature]*

M-A

S. CHETTY (DEPONENT)

Sheriff Nkandla

In terms of Regulation R 1258 published in Government Gazette No.3619 of the 21<sup>st</sup> July 1972 having been complied with I hereby certify that the deponent has acknowledgement that he/she knows and understands the contents of this affidavit, which was signed and sworn to before me

at

TONGAAT

On this 23 day of OCTOBER 2020

COMMISSIONER OF OATHS

FULL NAME: SITHENGALE A. LEATO

CAPACITY: CONSTABLE

AREA: TONGAAT

BUSINESS ADDRESS: 302 MAIN RD, TONGAAT

SOUTH AFRICAN POLICE
COMMUNITY SERVICE CENTRE
2020 -10- 23
TONGAAT
KWAZULU NATAL

M. A.

GG-REFERENCE-047

IM41

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

JOHANNESBURG

In the matter between:

STATE CAPTURE

Case No - Saak No

Applicant

and:

MR JACOB GEGLEYIHLEKISA ZUMA

Respondent

Return in accordance with the provisions of Rule 54(6)(b) of the Uniform Rules of Court, as amended

On this 20th day of OCTOBER 2020 at 18:00 I certify that I served the SUMMONS TO: APPEAR AS A WITNESS upon MR JACOB GEGLEYIHLEKISA ZUMA at KWADAKWADUNUSE HOMESTEAD, KWANKAMALALA, NKANDLA, residence by handing a copy thereof to Miss Sergeant Mthonsi, Female, Police Officer, a person apparently older than 16 years of age and employed at the defendant's given address. I further explained the nature, content and exigency of the process to the said person.

I herewith return the original document to your office  
Rule 54(6)(b)

Appearance Date: 16 NOVEMBER 2020.

Sheriff Fees Baljugeide	Date Datum	21.10.2020	Tax Invoice Number Belastingfaktuur Nr.	I 10846	
			Description	Qty	Vat Amount
			Registration	1	1.65 11.00
			Return 5 Copy	1	4.28 28.50
			Service Fee	1	10.65 71.00
			Travelling	230	207.00 1380.00
			Send/rec Email	1	2.85 19.00
			Postage	1	3.75 25.00
			Urgency Fee	1	105.00 700.00
			VAT/BTW		335.18
			Ndomiso D Mthembu Deputy Sheriff  <b>S. Chetty</b> Sheriff - Balju Melmoth, Eshowe, Munzini & Nkandla P O Box 666 Melmoth 3835 Tel: 035 450 0001 Fax: 035 450 0002 sheriffmelmoth@gmail.com Payments: Bank: Standard Bank Name: Sheriff Melmoth Business Account BRCode: 57729 AccNo: 031013678		
VAT Reg No BTW Reg Nr.	4310289923	You may require this account to be taxed and vouched before payment. U kan vereis dat hierdie rekening betaalbaar en geverifieer word voor betaling		Total Totaal	2569.68
COMMISSION OF ENQUIRY 2ND FLOOR, HILLSIDE HOUSE 17 EMPIRE ROAD, PARKTOWN, JOHANNESBURG 2193			Account No. ♦ Rekening Nr. Your Reference ♦ U Verwysing My Reference ♦ My Verwysing Ret: 111464/POPS71	1013 VatReg SPS17(G)/1181/RJP	
			Registrar: JOHANNESBURG		

*S M-A*

GG-REFERENCE-048

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

In the matter between:

STATE CAPTURE

Case No - Saak No

Applicant

and:

MR JACOB GELEYIHLEKIZA ZUMA

Respondent

Return in accordance with the provisions of Rule 54(6)(b) of the Uniform Rules of Court, as amended

On this 22nd day of OCTOBER 2020 at 10:38 I served the SUMMONS TO APPEAR AS A WITNESS upon MR JACOB GELEYIHLEKIZA ZUMA at KWADAKWADUNUSE HOMESTEAD, KWANKALALA, NKANDLA by handing a copy thereof to MS N.A NGCOBO, FEMALE, SECRETARY TO FORMER PRESIDENT ZUMA, a person apparently older than 16 years of age and employed at the Respondent's residence. I further explained the nature and exigency of the process to the said person. Rule 54(b)(b)

Appearance Date: 16 NOVEMBER 2020.

Sheriff Fees Baljuggeldc	Date Datum	Tax Invoice Number Belastingfaktuur Nr.																																														
	27.10.2020	I 10951																																														
<table border="1"> <thead> <tr> <th>Description</th> <th>Qty</th> <th>Vat</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Registration</td> <td>1</td> <td>1.65</td> <td>11.00</td> </tr> <tr> <td>Return &amp; Copy</td> <td>1</td> <td>4.28</td> <td>28.50</td> </tr> <tr> <td>Service Fee</td> <td>1</td> <td>10.65</td> <td>71.00</td> </tr> <tr> <td>Travelling</td> <td>300</td> <td>270.00</td> <td>1800.00</td> </tr> <tr> <td>Send/rec Email</td> <td>1</td> <td>2.85</td> <td>19.00</td> </tr> <tr> <td>Postage</td> <td>1</td> <td>3.75</td> <td>25.80</td> </tr> <tr> <td>Time spent</td> <td>3</td> <td>135.00</td> <td>900.00</td> </tr> <tr> <td>Urgency Fee</td> <td>1</td> <td>105.00</td> <td>700.00</td> </tr> <tr> <td>Cost of Copies</td> <td>10</td> <td>9.75</td> <td>65.00</td> </tr> <tr> <td>VAT / BTW</td> <td></td> <td></td> <td>542.93</td> </tr> </tbody> </table>			Description	Qty	Vat	Amount	Registration	1	1.65	11.00	Return & Copy	1	4.28	28.50	Service Fee	1	10.65	71.00	Travelling	300	270.00	1800.00	Send/rec Email	1	2.85	19.00	Postage	1	3.75	25.80	Time spent	3	135.00	900.00	Urgency Fee	1	105.00	700.00	Cost of Copies	10	9.75	65.00	VAT / BTW			542.93	<p>S. CHETTY SHERIFF</p> <p><i>S. Chetty</i> Sheriff - Balju Melmoth, Eshowe, Mtunzini &amp; Nkandla P O Box 666 Melmoth 3835 Tel: 035 450 0001 Fax: 035 450 0002 sheriffmelmoth@gmail.com</p> <p>Bank: Standard Bank Name: Sheriff Melmoth Business Account BCode: 57729 AcNo: 031013678</p>	
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VAT Reg No. BTW Reg Nr	4310289923	<p>You may require this account to be taxed and vouched before payment. U kan vereis dat hierdie rekening getekseer en geseel word voor betaling</p>		Total Totaal	4162.43																																											
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			Registrar: JOHANNESBURG																																													

*M.A.*

GG-REFERENCE-049

**Derick de Beer**

**From:** Shannon S. Van Vuuren  
**Sent:** 03 November 2020 12:28  
**To:** Veruschka V. September  
**Cc:** Alan A. Nixon  
**Subject:** JACOB ZUMA RETURN OF SERVICE // MABUZA ATTORNEYS // JHB NORTH

**From:** johannesburgnorth@sheriffnet.co.za <johannesburgnorth@sheriffnet.co.za>  
**Sent:** Monday, 02 November 2020 15:10  
**To:** Lerato L. Radebe <LeratoR@commissionsc.org.za>; Lerato L. Radebe <LeratoR@commissionsc.org.za>;  
 lerator@commissoinsc.org.za  
**Subject:** Return: 155056 - NO REF - THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE  
 CORRUPTION - MR JACOB GELDLEYIHLEKISA ZUMA

**The Judicial Commission of Inquiry into allegations of State Capture, Corruption and fraud in the  
 public sector including organs of the state  
 Held at Johannesburg**

In the Matter between:	Case Number	<b>NO CASE NO</b>
THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE CORRUPTION	Plaintiff	
and		
MR JACOB GELDLEYIHLEKISA ZUMA	Defendant	
and		

Return in accordance with the provisions of the Supreme Court Act 10 of 2013, as amended

**RETURN OF SERVICE - SUMMONS - RETURN IN ACCORDANCE WITH THE PROVISIONS OF RULE 54(6) OF THE  
 UNIFORMS RULES OF COURT, AS AMENDED**

On this 30th day of October 2020 at 14:20 I served this SUMMONS upon MISS LANGWE, ATTORNEY ostensibly a responsible person and not less than 16 years of age, being the duly authorised agent of MR JACOB GELDLEYIHLEKISA ZUMA who accepted service on behalf of lastmentioned after a power of attorney was displayed, at C/O MABUZA ATTORNEYS, 1ST FLR, 83 CENTRAL STR, HOUGHTON, JHB by handing firstmentioned a copy thereof after exhibiting the original and explaining the nature and exigency of the said process. RULE 54(6)

Note: The original return together with the original abovementioned process is dispatched to the mandator.

A T Esterhuizen - Deputy Sheriff

Sheriff Costs - Account: 4226 - COMMISSION OF INQUIRY			
Description	Qty	VAT	Total
Email correspondence	1	2.85	19.00
Service	1	10.58	70.50
Travelling	1	18.00	120.00
Registration	1	1.65	11.00
Return	1	5.63	37.50
Urgency fee	1	67.50	450.00

Sheriff JHB North  
 T A Kruger  
 P O Box 9025  
 Johannesburg 2000  
 Tel 011 334 4397/8/9  
 Fax: 011 334 4320




GG-REFERENCE-050

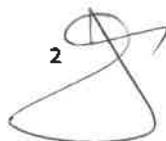
Collection	1	1.20	8.00
Vat / btw 15%			107.40
Copy Tax Invoice 54219 - Total			823.40
My VAT No: 4250141902			

## Payments:

Absa Bank Code 632005  
AccName: Sheriff JHB North  
AccNo: 0660 140 867  
[kotie@sheriffjhbnorth.co.za](mailto:kotie@sheriffjhbnorth.co.za)

Draft return in electronic format, issued without prejudice of rights and with reservation. The above return is rendered for notification only, not for judicial purposes, thus unverified and subject to editing. Errors and omissions excluded. The above information may be legally privileged. If you have received it in error kindly inform sender. Please refrain from any disclosure, copying, distribution or taking any action in reliance thereon.

2



M - A.



IM42

Att: Ms KB Shabalala  
 Acting Secretary: Commission of Inquiry into State Capture  
 Hillside House, 3<sup>rd</sup> Floor  
 17 Empire Road  
 Parktown

1<sup>st</sup> Floor  
 83 Central Street  
 Houghton  
 2198  
 PO Box 55045  
 Northlands 2116  
 Tel: +27 11 483-2387/483-0476  
 Fax: +27 11 726 - 0145  
 Direct e-mail: [eric@mabuzza.co.za](mailto:eric@mabuzza.co.za)

Email: [BrigitteS@commissionsc.org.za](mailto:BrigitteS@commissionsc.org.za)

Your Ref: Farhan Khan  
 Our Ref: Mr ET Mabuzza  
 Date: Tuesday, September 01, 2020

Dear Madam,

#### Appearance by President JG Zuma before the Commission

1. We act on behalf of former President JG Zuma ("President Zuma"), and refer to your letters dated 10 and 18 August 2020 respectively.
2. At the outset, we wish to put it on record that we have just been recently appointed by President Zuma to assist him in respect of the Commission. At this stage, we still need to familiarize ourselves with all the documentation with which President Zuma was served dating back to when the Commission started. We assure the Commission that we are working hard at this and intend to fully engage counsel about President Zuma's previous appearance at the Commission as well as the totality of the evidence to which he is asked to respond. We also intend engaging counsel about their availability going forward, given the fact that they have been briefed to prepare for the trial and other pending matters involving President Zuma.
3. We noted from the Commission's letter that rather than engage us, it has relied on the media to determine when President Zuma should appear at the Commission. We are of the view that the availability of President Zuma could easily have been discussed or verified with us before the Commission made its own (incorrect)

Eric T Mabuzza B.Proc (Unin) LLB (Wits) ◀ Senior Associates Rudolph N Belayi LLB (UL) ◀ Zondwe Longwe LLB (Wits) ◀ Thomas Sibuyi LLB (UNISA)

◀ Mzuphele GM Yeko B.Proc (UNTRA)

M-A

assumptions about his availability or our own readiness as the new attorneys in the matter.

4. We note that the Commission has finally given formal notice of its intention to proceed with the application to compel President Zuma to appear. It should follow that we must await the outcome of that application before we can discuss the possible appearance of President Zuma at the Commission. We trust that the Commission will engage with us regarding the dates for the hearing of the application.
5. Further, we wish to point out that President Zuma is preparing for his much-anticipated criminal trial, the importance of which cannot be over-emphasized. It is rather unfair to expect President Zuma to simultaneously consider evidence and affidavits of more than 30 witnesses in order to make himself ready to appear before the Commission on 21–25 September 2020. Equally, as his new attorneys of record, we must be afforded sufficient time to consider all the evidence, consult with counsel and President Zuma, in order to offer him proper advice on the way forward.
6. President Zuma is also engaged in several other cases which require his full attention. It must be noted further that President Zuma is also of advanced age and given the current Covid-19 pandemic, he has been advised to limit his movements. This has had an impact on our own ability to consult with him in respect of the Commission.
7. We are of the view that at the very least suitable dates should have been discussed with us as his new legal team. We request that future dates, including those of the pending application be discussed with us before they are confirmed, lest our unavailability be interpreted as non-co-operation.
8. We note the threat that the Commission “*reserves its rights to take steps to compel the former President to appear before the Commission*” and consider it unnecessary to respond to it at this stage as it does not assist the process in any way. Instead, it only serves to demonstrate the disdain with which the Commission’s legal team

Handwritten signature and initials. The signature is a large, stylized 'S' with a loop at the bottom. To its right are the initials 'M.A.' written in a cursive hand.

treats President Zuma. We do not wish to engage in such exchange of threats as this may only taint the integrity of such an important Commission.

9. We are instructed that the pending application itself was necessitated by the Commission's refusal to believe that President Zuma was indeed out of the country to receive medical attention. As we understand it, the Chairperson of the Commission, Deputy Chief Justice Raymond Zondo undertook or ruled that he would meet President Zuma's medical doctor to verify whatever he did not believe that President Zuma was receiving medical attention in Cuba at the time he was asked to appear before the Commission. We are currently instructed to deal with that application with which the Commission's legal team persist. We also await the outcome of the meeting between the Chairperson and President Zuma's doctor.
10. In our view, over and above other logistical difficulties we face as the new legal team, it is premature to seek to call President Zuma to appear before finalizing the application that is pending before the Commission in respect of the Commission's own application to issue summons / subpoena against President Zuma.
11. Further to the above, President Zuma has raised a concern regarding the implications of the promulgation of Proclamation No 24 of 2020, and is seeking legal advice on the implications thereof on his further participation.
12. In the circumstances, we are instructed to inform the Commission, as we hereby do, that for all the reasons mentioned above President Zuma will not be able to attend the proceedings scheduled on the dates of 21-25 September 2020.
13. We note that the Commission's legal team categorically states that it considers itself no longer bound by the agreement reached between the parties on 19 July 2019.
14. We await your response and, in the meantime, all our client's rights are reserved.



M-A

Yours faithfully

A handwritten signature in black ink, appearing to be a stylized name, possibly 'M. A.', written over a horizontal line.

**MABUZA ATTORNEYS**

A handwritten mark consisting of a triangle with a diagonal line through it, possibly a stylized signature or logo.

M-A