

**IN THE SPECIAL TRIBUNAL**  
**HELD AT THE BOOYSENS MAGISTRATE'S COURT, JOHANNESBURG**  
**On 30 July 2020 before The Honourable Mr Justice Mothle**

**CASE NO:** GP/03/2020

In the EX PARTE application by:

**SPECIAL INVESTIGATING UNIT**

First Applicant

**TRANSNET SOC LTD**

Second Applicant

In the matter between:

**SPECIAL INVESTIGATING UNIT**

First Applicant

**TRANSNET SOC LTD**

Second Applicant

and

**LINYENGA HERBERT MSAGALA**

First Respondent

**BONOLO MATHULO MSAGALA**

Second Respondent

**LINYENGA HERBERT MSAGALA N.O** (In his capacity

as **Trustee of The Msagala Investment Trust**)

Third Respondent

**ROBERTO JORGE MEDONCA VELOSA N.O** (In his

capacity as **Trustee of The Msagala Investment Trust**)

Fourth Respondent



<b>LINYENGA HERBERT MSAGALA N.O</b> (In his capacity as Trustee of <b>The Msagala Residence Trust</b> )	Fifth Respondent
<b>ROBERTO JORGE MEDONCA VELOSA N.O</b> (In his capacity as Trustee of <b>The Msagala Residence Trust</b> )	Sixth Respondent
<b>LINYENGA HERBERT MSAGALA N.O</b> (In his capacity as Trustee of <b>The Msagala Family Trust</b> )	Seventh Respondent
<b>ROBERTO JORGE MEDONCA VELOSA N.O</b> (in his capacity as Trustee of <b>The Msagala Family Trust</b> )	Eighth Respondent
<b>LINYENGA HERBERT MSAGALA N.O</b> (In his capacity as Trustee of <b>The Msagala Share Trust</b> )	Ninth Respondent
<b>ROBERTO JORGE MEDONCA VELOSA N.O</b> (In his capacity as Trustee of <b>The Msagala Share Trust</b> )	Tenth Respondent
<b>TRANSNET RETIREMENT FUND</b>	Eleventh Respondent

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*Handwritten signature*  
30/7/20  
**DRAFT ORDER**

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Having read the notice of motion, affidavits and annexures, and having heard counsel for the applicant:

**IT IS HEREBY ORDERED:**

1. The normal forms, time periods and service, as provided for in the Special Tribunal Rules, are hereby dispensed with, and the matter is

permitted to be dealt with on an *ex parte* basis and as one of urgency as contemplated by Rule 12 of the Special Tribunal Rules.

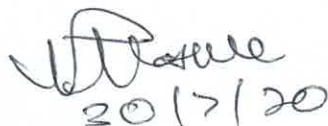
2. The First to Tenth Respondents are prohibited from dealing in any manner with the property listed in Schedule "A" attached to this order.
3. Mr Aviwe Ndyamara, a Director at Tswane Trust, is appointed as *curator bonis*, subject to the applicable provisions of the Administration of Estates Act 66 of 1965, as well as the supervision of the Master of the High Court.
4. The *curator bonis*, after obtaining letters of curatorship, is authorised and required to take the property listed in Schedule A into his custody and under his control, to take care of such property and to administer it, and to exercise the further powers and perform the functions and duties listed in Rule 27(1) of the Special Tribunal Rules.
5. The *curator bonis* shall furnish a report or reports to this Tribunal, and to the parties involved in this matter, on all material aspects of his curatorship, including a description and value of each asset over which he has assumed control in terms of the order, how he has dealt with such assets, and any recommendations he may have as to the further exercise of his curatorship. The first report shall be filed with the Registrar of this Tribunal and served on all the parties to these proceedings, at least one week before the return date specified below.



6. The Eleventh Respondent is interdicted from releasing to the First Respondent or any other party any money which represents retirement benefits due to the First Respondent, pending the outcome of an action, to be instituted within five days of this order, by the Second Applicant against the relevant Respondents and others, for recovery of secret profits earned by the First Respondent while he was employed by the Second Applicant.
7. The interim orders specified in paragraphs 2 to 6 above shall operate pending the return date referred to in paragraph 8.
8. A *Rule Nisi* is issued in terms of which the Respondents are called upon, on **29 SEPTEMBER 2020 at 10h00** or as soon thereafter as counsel may be heard ("*the return date*"), to show cause why:
  - 8.1. the property listed in Annexure A should not be declared forfeit to the State, and be handed over to the Second Applicant;
  - 8.2. the interim order in paragraph 6 above should not be confirmed pending the outcome of the action to be instituted by the applicant;
  - 8.3. such of the Respondents as may oppose the confirmation of the interim orders specified in paragraphs 2 to 6 above should not be ordered to pay the costs of this application jointly and severally.



9. Any of the Respondents may make an application to anticipate the return day specified in paragraph 8 above, by delivering notice thereof at least 24 hours prior to the hearing, to the Registrar, the Applicants and all other Respondents.
10. Should any of the Respondents intend to oppose the confirmation of the rule *nisi* above, they are required:
- (a) to deliver a notice of opposition within **five days** from the date on which this order is served on them;
  - (b) to appoint, in that notice of opposition, an address at which they will receive service of notices and other documents and processes in this application; and
  - (c) to deliver an answering affidavit, if any, within **fifteen days** of the delivery of their notice of opposition.
11. The costs in respect of the relief sought in Part A of the notice of motion are reserved for determination at the hearing of Part B.

  
2017/20

**BY ORDER OF THE SPECIAL TRIBUNAL**




M. Mashutislo

P.P

THE REGISTRAR OF THE SPECIAL TRIBUNAL

DATE:

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	
SPECIAL TRIBUNAL	
CNR AMANDA AVENUE & RIFLE RANGE ROAD, OAKDENE	
	2020-07-30
C/A No: One	Signature of Issuing Officer M. Mashutislo Name Mpio
REGISTRAR	