

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case No: 38386/2022

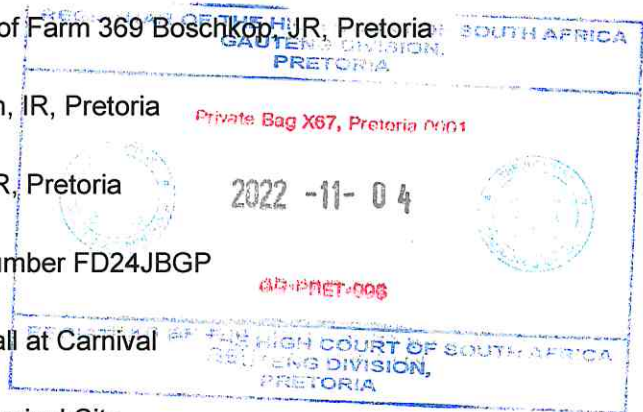
In the *ex parte* application of:

The National Director of Public Prosecutions

Applicant

In re:

1. Unit 2, SS Violet, Scheme Number 369/2014, JR, Pretoria
2. Unit 1 and Unit 2, SS Celtisdal 612, Scheme Number 772/2016, Pretoria
3. Erf 5267 Midstream Estate Extension 67, JR, Pretoria
4. Erf 1037 Pecanwood Extension 11, JQ, Pretoria
5. Portion 448 of Farm 375 Rietfontein, JR, Pretoria
6. Portion 2 of Erf 1384 Bryanston, IR, Pretoria
7. Remaining Extent Portion 29 of Farm 369 Boschkop, JR, Pretoria
8. Portion 1 of Erf 524 Bryanston, IR, Pretoria
9. Erf 1194 Peach Tree Ext 2, JR, Pretoria
10. BMW 420i with registration number FD24JBGP
11. Ocean Basket franchise at Mall at Carnival
12. Ocean basket franchise at Carnival City



**IN AN APPLICATION FOR A PRESERVATION OF PROPERTY ORDER IN
TERMS OF SECTION 38(1) OF THE PREVENTION OF ORGANISED CRIME
ACT, NO. 121 OF 1998**

ORDER

On 4 November 2022.

Before the honourable Justice Ledwaba, in chambers.

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

IT IS HEREBY ORDERED THAT:

The Property

1 This order relates to the following property (hereinafter referred to as “**the property**”):

- 1.1 Unit 2, SS Violet, Scheme Number 369/2014, JR, Pretoria;
- 1.2 Unit 1 and Unit 2, SS Celtisdal 612, Scheme Number 772/2016, Pretoria;
- 1.3 Erf 5267 Midstream Estate Extension 67, JR, Pretoria;
- 1.4 Erf 1037 Pecanwood Extension 11, JQ, Pretoria;
- 1.5 Portion 448 of Farm 375 Rietfontein, JR, Pretoria;
- 1.6 Portion 2 of Erf 1384 Bryanston, IR, Pretoria;
- 1.7 Remaining Extent Portion 29 of Farm 369 Boschkop, JR, Pretoria;

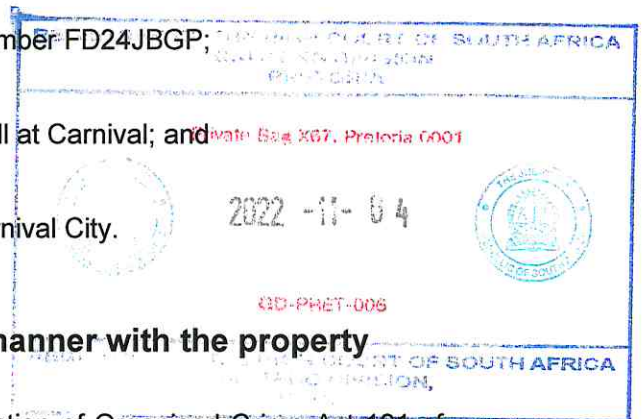


1.9 Erf 1194 Peach Tree Ext 2, JR, Pretoria;

1.10 BMW 420i with registration number FD24JBGP;

1.11 Ocean Basket franchise at Mall at Carnival; and

1.12 Ocean basket franchise at Carnival City.



Prohibition against dealing in any manner with the property

2 In terms of section 38(2) of the Prevention of Organised Crime Act 121 of 1998 (**the POCA**), all persons with knowledge of this order, are, other than as required and permitted by this order, prohibited from:

2.1 removing, taking possession of or control over, dissipating, interfering with, diminishing the value of, pledging or otherwise hypothecating, attaching or selling in execution or dealing in any other manner with any of the movable property to which this order relates; and

2.2 disposing of, further encumbering, dissipating, interfering with, attaching or selling in execution, diminishing the value of or dealing in any other manner with any of the immovable property to which this order relates.

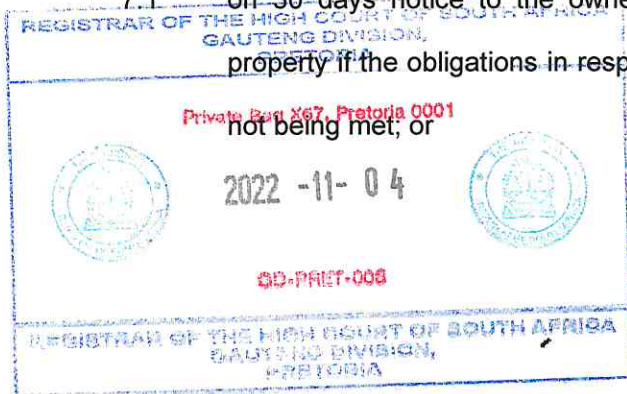
3 The Registrar of Deeds shall endorse the title deed of the immovable property specified above with the restriction that the property, or property representing such property, shall not, without the prior leave of this honourable court, be attached, sold in execution, further mortgaged or otherwise encumbered; provided that such endorsement shall not prevent a transfer of the property effected in accordance with paragraph 7.

- 4 Notwithstanding the provisions of this order, any person who has financial obligations in respect of any of the property is ordered to fulfil such obligations, including any obligations relating to mortgage bonds, vehicle finance, rates, taxes, licences, utilities such as water and electricity accounts, and all interest accruing in respect of such obligations, pending the finalisation of the forfeiture proceedings unless such person signs a consent to judgment in favour of the applicant.

Curator bonis

- 5 In terms of section 42 of the POCA, Shawn Williams of GCW Administrators (Pty) Ltd with telephone number 0827183648, is appointed as *curator bonis* over the property (**the *curator bonis***). The *curator bonis* shall have all such powers, duties and authority as provided for in the POCA and in this order and shall, in addition, be 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.
- 6 The *curator bonis* is authorised to assume control of the property and to take any movable property into his custody; take care of the property; administer the property and do anything necessary to preserve the property while the order is in force.
- 7 It is provided that the *curator bonis* may dispose of some or all of the property or property representing such property:

7.1 on 30 days notice to the owner and bondholder of immovable property if the obligations in respect of the property concerned are



- 7.2 by agreement with all parties who have a legal interest in the property concerned in order to defray the costs of administering the property.
- 8 Notwithstanding the provisions set out above, and where appropriate, the *curator bonis* is entitled to pay any expenses related to preserved property, which would ordinarily be carried by the owner, out of any income derived from the property or from income derived from other preserved property of the owner.
- 9 In the event of the sale of immovable property in accordance with this order, the *curator bonis* may facilitate the sale and pay the commission of the estate agent in terms of the sale agreement, as well as other fees and costs attendant on the transfer of the property, after the proceeds of the sale have been received and registration of the property has taken place.

Surrender of property and safeguards

- 10 Any person who holds any of the property is directed in terms of section 42(1)(b) of the POCA to surrender the property forthwith into the custody of the *curator bonis*, failing which any member of the South African Police Service (or other agency if the facts render it necessary or appropriate) is hereby authorised, on the instruction of the *curator bonis*, to seize the relevant property and place it in the custody of the *curator bonis*.
- 11 Before any seizure of property takes place, the person from whose possession property is to be seized, must be afforded a reasonable opportunity, under the supervision of the *curator bonis* and/or any member of the SAPS (or other agency if the facts render it necessary or appropriate)



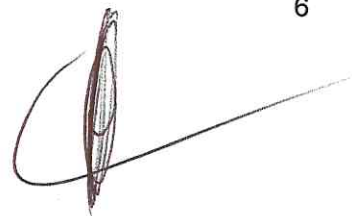
who may be present, to summon a legal representative to be present during the seizure.

12 If it should appear to the *curator bonis*, from circumstances of which he shall keep a contemporaneous note, that the right to summon a legal representative is being made the occasion of needless or unreasonable delay, or that the person concerned appears to be using the delay to create an opportunity to dissipate, conceal or divest themselves of property or in any other manner obstruct the *curator bonis* in carrying out his functions under this order, the *curator bonis* may, after warning those present that the search is to commence, authorise the members of the SAPS to proceed with the seizure forthwith whether or not the legal representative is then present.

13 If any of the property is not surrendered to the *curator bonis* or seized and placed in his or her custody in accordance with this order, the *curator bonis* is authorised to require the person who holds or who held such property to disclose, on affidavit, within a reasonable time specified by the *curator bonis*, full details of the whereabouts of such property or its proceeds.

Report by curator bonis

14 The *curator bonis* must file a report with the registrar of this honourable court within 30 days of the granting of the preservation order which shall contain an inventory of the property taken into his custody in terms of this order, in which he shall set out the steps that have been taken by him to give effect to this order, and make any further recommendations as he may deem fit regarding any other steps he might be required to take in order to



give effect to the order. The *curator bonis* must file supplementary reports containing additional relevant information as and when such reports become necessary.

Fees and expenditure of *curator bonis*

- 15 The fees and expenditure of the *curator bonis* must, in terms of section 42(2) of the POCA, be paid from the forfeited property. In the event of no forfeiture order being granted, then such fees and expenditure must be paid by the State, provided further that interest on expenditure incurred by the *curator bonis* is paid by the State at the prime lending rate of the major financial institutions from the date of expenditure until the date of final payment.

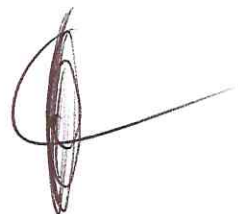
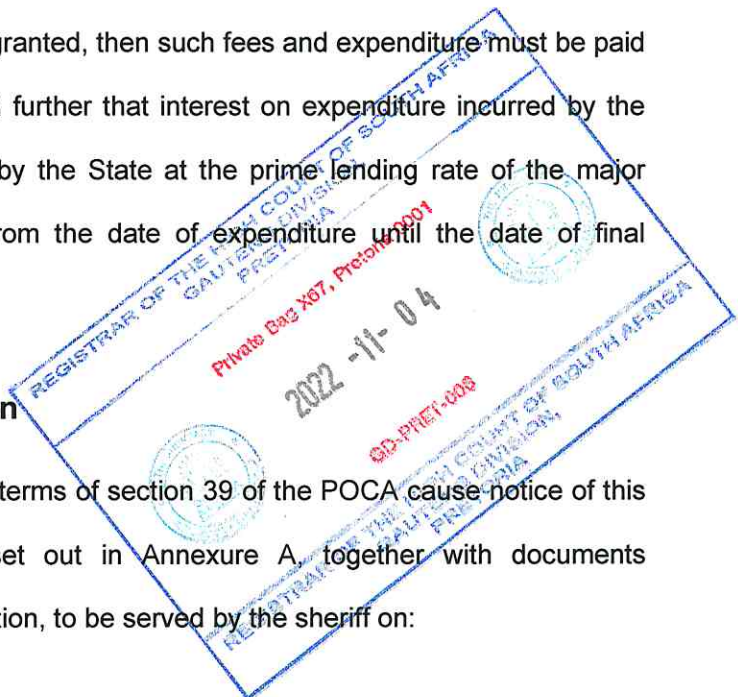
Service and publication

- 16 The applicant must in terms of section 39 of the POCA cause notice of this order, in the form set out in Annexure A, together with documents supporting the application, to be served by the sheriff on:

16.1 Fulufhelo Promise Kharivhe with ID number 800329 0676 085 residing at Unit 2, SS Violet, Monavoni Extension 15, Centurion.

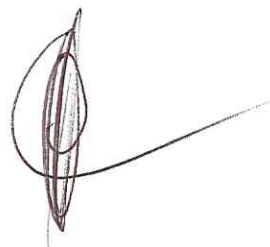
16.2 AO Residence Trust with registration number IT002776/2015(T) as represented by Mashudu Shandukani (trustee) with ID number 820805 5577 085 residing at 241 Undersite, South Street, Monavoni, Centurion.

16.3 Rasemate Family Trust with trust registration number IT2897/2016 as represented by Rebotile Malomane (trustee) with ID number



900717 1064 088 residing at 3 Church Street, 114 Princess Park, Pretoria.

- 16.4 Mojakgomo Family Trust with registration number IT2339/2016 as represented by Thabang Charlotte Mampane with ID number 581012 0861 080 (trustee) residing at 40 Gail Street, Helderkruijn, Roodepoort.
- 16.5 Lesley Nkhumbuleni Ramulifho with ID number 800511 5293 087 at his place of business, Ramulifho Inc, 21A Garsfontein Office Park, 645 Jacqueline Drive, Garsfontein.
- 16.6 Moitheri Pheto with ID number 810511 0313 086 residing at 77 Devonshire Avenue, Bryanston.
- 16.7 Upbrand Properties Trust with registration number IT2418/2016 as represented by Sthembis Jim Skosana (trustee) with ID number 910107 5532 082 residing at 169 Boardwalk Complex, Olympus Street, Pretorius Park, Garsfontein.
- 16.8 Collin Mukondeleli Tshisimba with ID number 780515 5531 085 residing at 4 Rockey Place, Monavona, Centurion.
- 16.9 Just Cuban Trust as represented by Botshelo Cornelius Moloto with ID number 940710 5439 085 (trustee) residing at 129 Duxbury Road, Hillcrest, Pretoria.
- 17 The Sheriff is authorised to effect service by way of electronic means in the form of a CD, DVD or USB memory stick.



- 18 In the event the sheriff has not been able to serve on any of the above persons, publication in the Government Gazette will be regarded as sufficient service.
- 19 The applicant must further in terms of section 39 of the POCA cause notice of this order, in the form set out in annexure A, to be published in the Government Gazette as soon as practicable after the order is granted.

Entry of appearance to oppose forfeiture order

- 20 Any person who has an interest in the property and who intends opposing the application for an order forfeiting the property to the State or applying for an order excluding his or her interest from a forfeiture order in respect of the property, must enter an appearance giving notice of his or her intention in terms of section 39(3) of the POCA.

- 21 Such notice must be delivered to the applicant:

21.1 in the case of any person specifically identified for service in terms of this order, within 14 calendar days of service; and

21.2 in the case of any other person, 14 calendar days after the date when a notice of the order was published in the Government Gazette.

- 22 A notice in terms of section 39 must contain full particulars of the chosen address for the delivery of documents concerning further proceedings in this matter and must be accompanied by an affidavit setting out:

22.1 the full particulars of the identity of the person giving the notice;



9

- 22.2 the nature and extent of his or her interest in the property concerned;
- 22.3 whether he or she intends opposing the making of the forfeiture order, or whether he or she intends applying for an order excluding his or her interest in that property from the operation of the order;
- 22.4 whether he or she admits or denies that the property concerned is an instrumentality of an offence referred to in schedule 1 of the POCA, or is the proceeds of unlawful activities and the basis for such defence;
- 22.5 if he or she intends applying for the exclusion of his or her interests from the operation of the forfeiture order, the basis for such an application.
- 23 Any person who is affected by the order may on good cause shown, apply for reconsideration. Such application shall be made:
- 23.1 in instances where the person is able to justify the application on grounds of urgency, upon 3 days notice (or such shorter period as the court may determine on good cause shown).
- 23.2 in other instances, upon at least 7 days notice to the applicant and all other persons identified in this order as being persons who may have an interest in the property.
- 24 Such an application must be made not later than 8 days after the person applying for reconsideration becomes aware of the existence of the order,



or within such further period as the court may consider reasonable, bearing in mind the underlying objectives of Chapter 6 of the POCA.

BY ORDER OF COURT

REGISTRAR OF THE HIGH COURT

DATE



A handwritten signature in dark ink, consisting of a large, stylized letter 'C' followed by a horizontal line extending to the right.

ANNEXURE A

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case No: 38386/2022

In the *ex parte* application of:

The National Director of Public Prosecutions

Applicant

In re:

1. Unit 2, SS Violet, Scheme Number 369/2014, JR, Pretoria
2. Unit 1 and Unit 2, SS Celtisdal 612, Scheme Number 772/2016, Pretoria
3. Erf 5267 Midstream Estate Extension 67, JR, Pretoria
4. Erf 1037 Pecanwood Extension 11, JQ, Pretoria
5. Portion 448 of Farm 375 Rietfontein, JR, Pretoria
6. Portion 2 of Erf 1384 Bryanston, IR, Pretoria
7. Remaining Extent Portion 29 of Farm 369 Boschkop, JR, Pretoria
8. Portion 1 of Erf 524 Bryanston, IR, Pretoria
9. Erf 1194 Peach Tree Ext 2, JR, Pretoria
10. BMW 420i with registration number FD24JBGP
11. Ocean Basket franchise at Mall at Carnival
12. Ocean basket franchise at Carnival City



**IN AN APPLICATION FOR A PRESERVATION OF PROPERTY ORDER IN
TERMS OF SECTION 38(1) OF THE PREVENTION OF ORGANISED CRIME
ACT, NO. 121 OF 1998**

**Notice in terms of section 39 of the Prevention of Organised Crime
Act 121 of 1998 (POCA)**

This notice is addressed to:

1. Fulufhelo Promise Kharivhe with ID number 800329 0676 085.
2. AO Residence Trust with registration number IT002776/2015(T) as represented by Mashudu Shandukani (trustee) with ID number 820805 5577 085.
3. Rasemate Family Trust with trust registration number IT2897/2016 as represented by Rebotile Malomane (trustee) with ID number 900717 1064 088.
4. Mojakgomo Family Trust with registration number IT2339/2016 as represented by Thabang Charlotte Mampane (trustee) with ID number 581012 0861 080.
5. Lesley Nkhumbuleni Ramulifho with ID number 800511 5293 087.
6. Moitheri Pheto with ID number 810511 0313 086.
7. Upbrand Properties Trust with registration number IT2418/2016 as represented by Sthembiso Jim Skosana (trustee) with ID number 910107 5532 082.



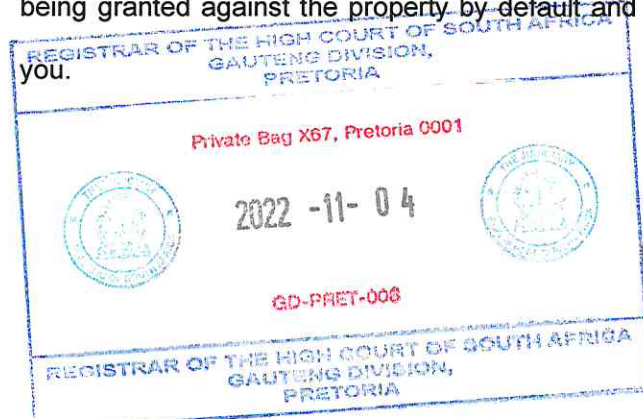
9. Just Cuban Trust as represented by Botshelo Cornelius Moloto (trustee) with ID number 940710 5439 085.
10. Any other person/s who have an interest in the property listed in the founding affidavit.

Take notice that:

- 11 The National Director of Public Prosecutions (**National Director**) has obtained a preservation of property order (**the order**), a copy of which is attached to this notice, in terms of section 38(2) of the POCA in respect of the property;
- 12 If you have an interest in the property, you should understand that it is now at risk. You are advised to obtain legal advice on whether your interest can be protected and, if so, on how to protect it;
- 13 You are notified that the National Director will, within 90 days of publication of this notice, apply to the High Court under section 48 of the POCA for an order declaring the property forfeit to the state. The order will remain in force until the application for a forfeiture order is finalised, and until any forfeiture order that is made is satisfied;
- 14 If you intend to oppose the application for a forfeiture order, or you intend to apply for an order excluding your interest from a forfeiture order in respect of the property, you must enter an appearance in terms of the order. The requirements for such an appearance are set out in the order and are also dealt with in sections 39(3), (4) and (5) of the POCA. An appearance must comply with these requirements;



- 15 Your attention is specifically drawn to the 14-day time limit prescribed in section 39(4) for the entry of an appearance referred to in paragraph 4 above;
- 16 If you enter an appearance in terms of the order you will be entitled to be given 14 days notice of the application by the applicant for a forfeiture order in respect of the property;
- 17 If you fail to enter an appearance in terms of the order or to comply with the above requirements, you will not be given notice of the application for a forfeiture order and you will not be entitled to appear at the hearing of the application. In such a case, the court may grant a default order forfeiting the property to the state under section 53 of the POCA;
- 18 You may, on good cause shown (including the non-availability of any other suitable remedy to protect your legitimate rights or interests), on 3 days notice in urgent instances and at least 7 days notice in other instances to the applicant, and within 8 days of becoming aware of the order, apply for reconsideration of the order;
- 19 You are specifically advised that even if you intend to apply for reconsideration of the preservation order in this case, you must, in addition, comply with paragraphs 4 and 5 above if you intend to oppose the forfeiture application at a later date. Failure to do so can result in a forfeiture order being granted against the property by default and without further notice to you.



Whenever this order states that you must deliver or serve any notice, affidavit or other process document on the applicant, you must deliver or serve them on the applicant at the following address:

THE STATE ATTORNEY

Applicant's Attorneys

Mr Mulaudzi

316 Thabo Sehume Street

PRETORIA

Tel: (012) 309 1500

Email: VuMulaudzi@justice.gov.za

or CSibiya@npa.gov.za

Ref: **Mr Mulaudzi/**

Any correspondence or other enquiries must also be directed to this address or contact number.



A handwritten signature in black ink, consisting of a stylized, elongated loop with a tail stroke extending to the right.