

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

Case No: 2022- 058969

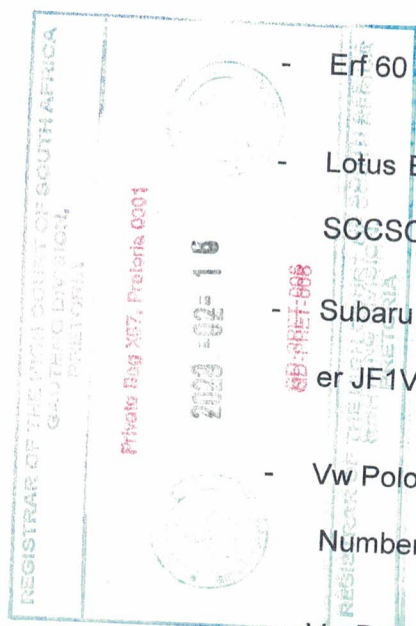
In the *ex parte* application of:

**The National Director of Public Prosecutions**

**Applicant**

**In re:**

- Farm 128 Portion 75 Goede Hoop with Title Deed Number T16957/2010 in Mpumalanga Luphisi Road, Mbombela – (Casambo Lodge)
- Farm 128 Portion 76 Goede Hoop with Title Deed number T8577/2011 in Mpumalanga
- Erf 1043 Ptn 64 Stonehenge Ext 1 Mbombela with tittle deed number T11536/2012 registered in the name of M Sambo
- Erf 60 Ptn 2 White River Mbombela with Title Deed Number T5458/2017
- Lotus Europa with registration number FKG630MP and Chassis Number SCCSC12107HN10872
- Subaru Impreza with registration number HSX991MP and Chassis Number JF1VAGK85FG005404 registered in the names of Zenzile Sanderson
- Vw Polo Vivo Blue Line with registration number HGK548MP and Chassis Number AAVZZZ6SZEU008524 registered in the name of Phuwanda
- Vw Polo Vivo with registration number HGN332MP and Chassis Number AAVZZZ6SZEU013378 registered in the name of Phuwanda



- Hilux 2,5D-4D 4X4 Pick up with registration FYT001MP and chassis number AHTFR22G706065367 registered in the name of Mwakasambo
- Yamaha Golf Car, with Serial Number JR60368159
- Yamaha Raptor 90 Quad Bike, with Serial Number RF3AB11Y7GT00273

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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

~~DRAFT ORDER~~

On 16 Feb 2023, Before the **Honourable Justice Ledwaba DJP**, in chambers.

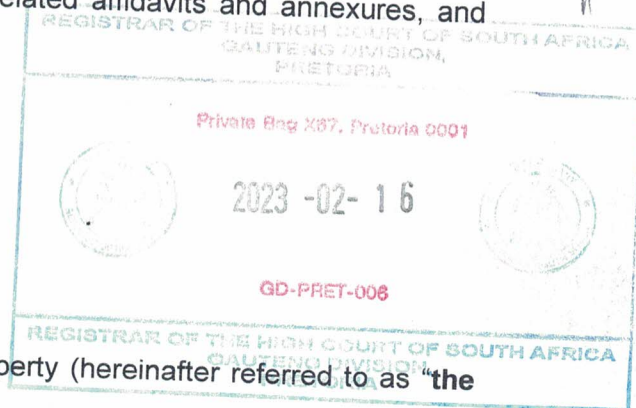
Having read the notice of motion and its related affidavits and annexures, and having heard counsel for the Applicant,

**IT IS HEREBY ORDERED THAT:**

**The Property**

- 1 This order relates to the following property (hereinafter referred to as "the property"):

- 1.1 Farm 128 Portion 75 Goede Hoop with Title Deed Number T16957/2010 in Mpumalanga Luphisi Road, Mbombela – (Casambo Lodge)



- 1.2 Farm 128 Portion 76 Goede Hoop with Title Deed number T8577/2011 in Mpumalanga
- 1.3 Erf 1043 Ptn 64 Stonehenge Ext 1 Mbombela with tittle deed number T11536/2012 registered in the name of M Sambo
- 1.4 Erf 60 Ptn 2 White River Mbombela with Title Deed Number T5458/2017
- 1.5 Lotus Europa with registration number FKG630MP and Chassis Number SCCSC12107HN10872
- 1.6 Subaru Impreza with registration number HSX991MP and Chassis Number JF1VAGK85FG005404 registered in the names of Zenzile Sanderson
- 1.7 Vw Polo Vivo Blue Line with registration number HGK548MP and Chassis Number AAVZZZ6SZEU008524 registered in the name of Phuwanda
- 1.8 Vw Polo Vlvo with registration number HGN332MP and Chassis Number AAVZZZ6SZEU013378 registered in the name of Phuwanda
- 1.9 Hilux 2,5D-4D 4X4 Pick up with registration FYT001MP and chassis number AHTFR22G706065367 registered in the name of Mwakasambo
- 1.10 Yamaha Golf Car, with Serial Number JR60368159





- 1.11 Yamaha Raptor 90 Quad Bike, with Serial Number RF3AB11Y7GT  
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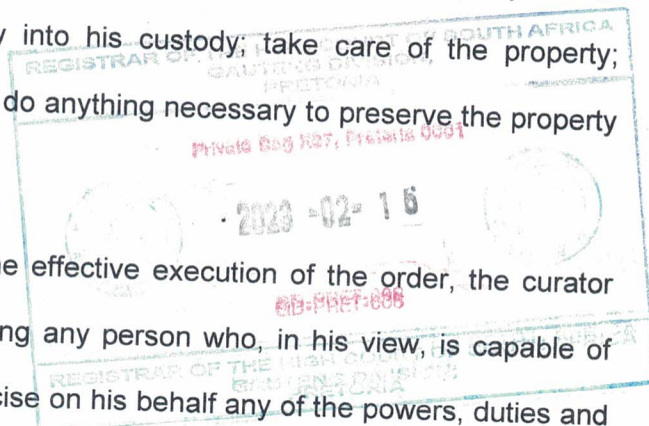
### Prohibition against dealing in any manner with the property

- 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***

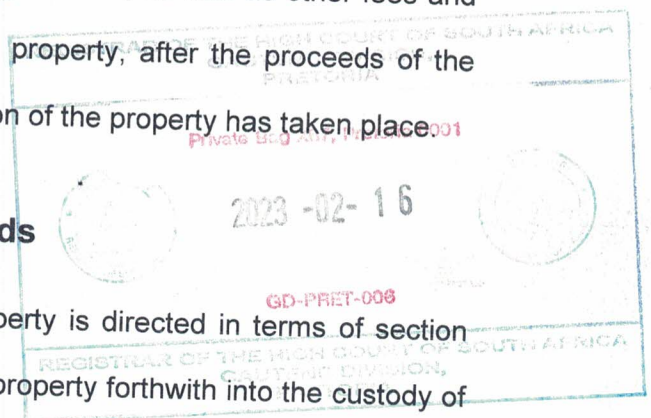
- 5 In terms of section 42 of the POCA, Shawn Williams of GCW Administrators (Pty) Ltd with telephone number 0827183648, is appointed as *curator bonis* over the property (**the curator bonis**). The *curator bonis* shall have all such powers, duties and authority as provided for in the POCA and in this 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 Where it is expedient for the effective execution of the order, the curator bonis may authorize in writing any person who, in his view, is capable of acting on his behalf, to exercise on his behalf any of the powers, duties and authority conferred on him and such authorization must be made available on request to a party with an interest.
- 8 It is provided that the *curator bonis* may dispose of some or all of the property or property representing such property:



- 8.1 on 30 days notice to the owner and bondholder of immovable property if the obligations in respect of the property concerned are not being met; or
- 8.2 by agreement with all parties who have a legal interest in the property concerned in order to defray the costs of administering the property.
- 9 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.
- 10 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

- 11 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*.

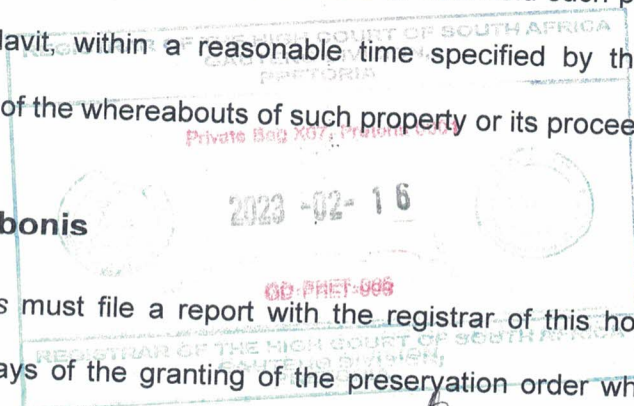




- 12 Before any seizure of property takes place, the person from whose possession property is to be seized, must be afforded a reasonable opportunity, under the supervision of the *curator bonis* and/or any member of the SAPS (or other agency if the facts render it necessary or appropriate) who may be present, to summon a legal representative to be present during the seizure.
- 13 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.
- 14 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

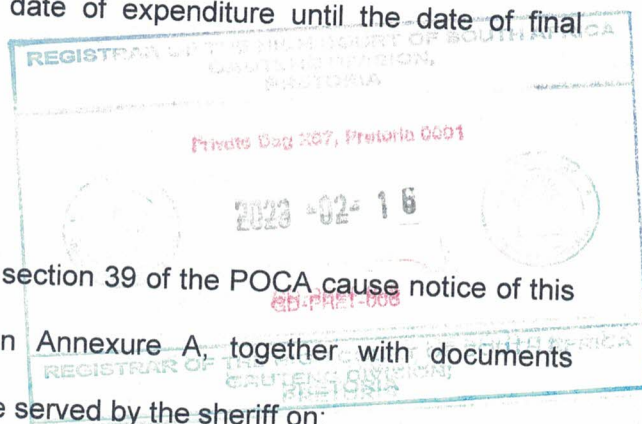
- 15 The *curator bonis* must file a report with the registrar of this honourable court within 30 days of the granting of the preservation order which shall



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***

- 16 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.



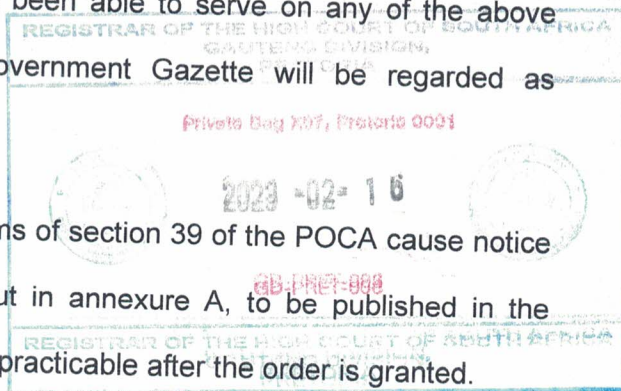
### **Service and publication**

- 17 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:

- 17.1 Zenzile Carol Sanderson, who resides at 12 Northview, Barberton, Nelspruit, Mpumalanga
- 17.2 Mukelo Pertunia Sambo, who resides 12 Northview, Barberton, Nelspruit, Mpumalanga



- 17.3 Cambo Property Development (Pty) Ltd, with registered address at 7 Moorhen St, Stonehenge, Mbombela, Mpumalanga 12 Northview, Barberton, Nelspruit, Mpumalanga
- 17.4 Judith Ann Gable,
- 17.5 Phindile Ntombikayise Msimango, who resides at 2351 Mazakhele, Wesselson, Ermelo, Mpumalanga
- 17.6 Phuwanda Trading CC with its registered address as 129 Plaston Street White River, Mpumalanga
- 17.7 Lusanda Trading CC, with its registered address as 86 Clarinet Street Mpumalanga
- 17.8 Mwakasambo Pty Ltd
- 18 The Sheriff is authorised to effect service by way of electronic means in the form of a CD, DVD or USB memory stick.
- 19 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.
- 20 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

- 21 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.

22 Such notice must be delivered to the applicant:

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

22.2 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.

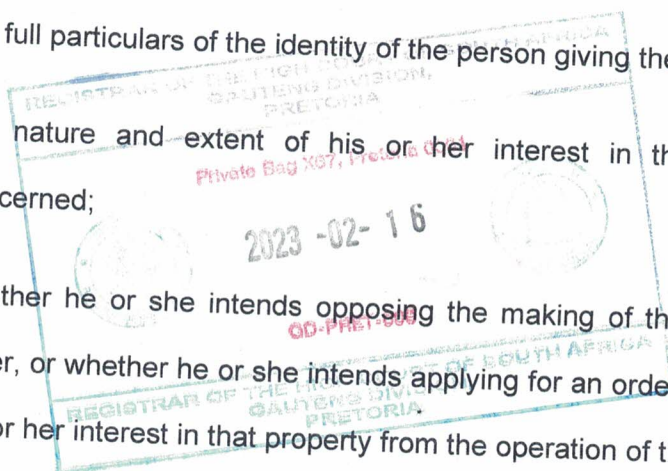
23 A notice in terms of section 39 must contain full particulars of the chosen address for the delivery of documents concerning further proceedings in this matter and must be accompanied by an affidavit setting out:

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

23.2 the nature and extent of his or her interest in the property concerned;

23.3 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;

23.4 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;



- 23.5 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.
- 24 Any person who is affected by the order may on good cause shown, apply for reconsideration. Such application shall be made:
- 24.1 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).
- 24.2 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.
- 25 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

