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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

2023-059271
CASE NO: 2023

In the *Ex Parte* application of:

THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

Applicant

In re: Erf number 3303 of the Township Jukskei View, Ext 105, Gauteng commonly known as Erf 3303, Waterfall Country Homeowners Association, Maxwell Drive Midrand, Gauteng measuring at 1105s square meters, held by certificate of registered title, T64406/2014.

IN AN APPLICATION FOR A PRESERVATION ORDER IN TERMS OF
SECTION 38 OF THE PREVENTION OF ORGANISED CRIME ACT 121 OF
1998

DRAFT ORDER

On 26 June 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

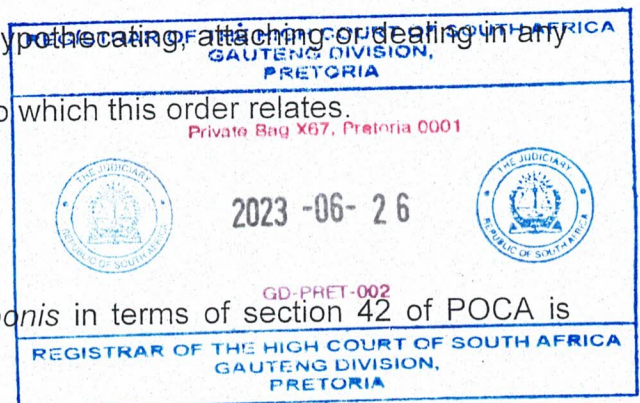
This order relates to Erf number 3303 of the Township Jukskei View, Ext 105, Gauteng commonly known as Erf 3303, Waterfall Country Homeowners Association, Maxwell Drive Midrand, Gauteng measuring at 1105s square meters, held by certificate of registered title, T64406/2014 (**the property**).

Prohibition against dealing in any manner with the property

- 1 In terms of section 38(2) of the Prevention of Organised Crime Act 121 of 1998 (**POCA**), all persons with knowledge of this order, are, other than as required and permitted by this order, prohibited from removing, taking possession of or control over, dissipating, interfering with, diminishing the value of, pledging or otherwise hypothecating, attaching or dealing in any other manner with the property to which this order relates.

Appointment of a *Curator Bonis*

- 2 The appointment of a *curator bonis* in terms of section 42 of POCA is hereby dispensed with.
- 3 The property shall remain in the care and control of the South African Police Service under the control and supervision of Lieutenant Colonel Carol Lebogang Manyaka of the Directorate for Priority Crimes and Investigations (**DPCI**) with a caveat on the title deed to be endorsed by the Registrar at Johannesburg Deeds Office, that the property shall not without the consent of the High Court be mortgaged, encumbered, attached and sold in execution, until the expiry of this order in terms of section 40 of POCA or until this matter is otherwise concluded.



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- 4 The forfeiture proceedings shall be instituted within 90 days after publication of the notice of the making of the preservation of property order in the Government Gazette.

Service and publication

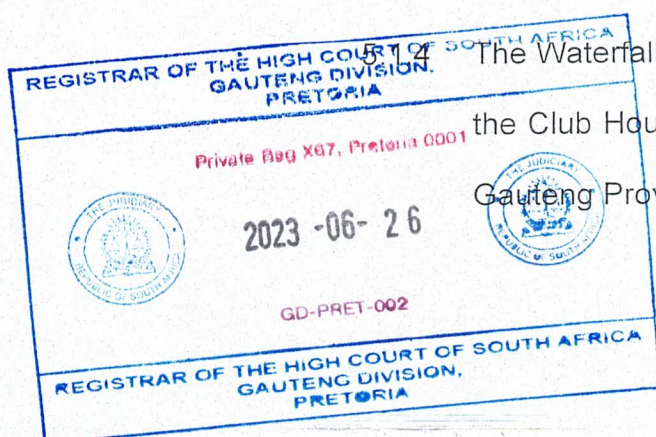
- 5 The applicant must in terms of section 39 of POCA:

5.1 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 following persons:

5.1.1 Mbuleli Lusenga N.O., Godfrey Sibusiso Lusenga N.O. and Mbuleli Nkosi N.O. being the trustees for the time being of the Nzitha Family Trust at Unit 12 Pebble Beach, Blueberry road, Honeydew and or at 1518 Doral Place, Eagle Canyon Golf Estate, Honeydew in Gauteng Province.

5.1.2 In terms of our law, a trust is not a legal persona but a legal institution *sui generis*. Its assets and liabilities vest in the trustees.

5.1.3 The Waterfall Country Estate Homeowners Association NPC at the Club House, Gate 4, 2630 Timbarati Drive, Midrand in Gauteng Province.



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5.1.5 The Standard Bank of South Africa Limited at no 5 Simmonds Street, Marshalls Town, Johannesburg, Gauteng Province.

5.2 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

6 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 POCA.

7 Such notice must be delivered to the applicant at the office of the State Attorney, SALU Building, 316 Thabo Sehume Street, Cnr Francis Baard and Thabo Sehume Streets, Pretoria.

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

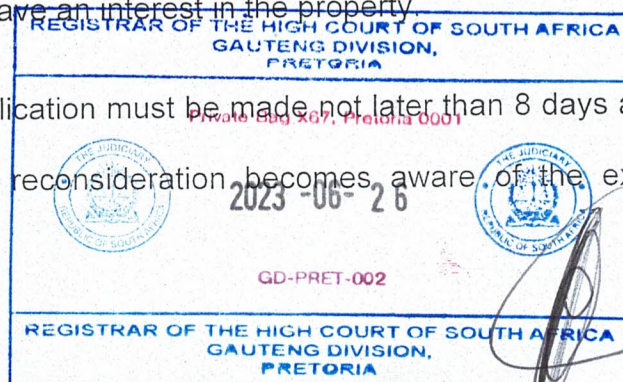
7.2 In the case of any other person, within 14 calendar days after the date when a notice of the order was published in the Government Gazette.



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- 8.1 the full particulars of the identity of the person giving the notice;
 - 8.2 the nature and extent of his or her interest in the property concerned;
 - 8.3 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;
 - 8.4 whether he or she admits or denies that the property concerned is an instrumentality of an offence referred to in schedule 1 of POCA and the basis for such defence; and
 - 8.5 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.
- 9 Any person who is affected by the order may on good cause shown, apply for reconsideration. Such application shall be made:
- 9.1 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).
 - 9.2 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.

- 10 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, dealing with the underlying objectives of chapter 6 of POCA.

BY ORDER OF COURT 2023-06-26

REGISTRAR OF THE HIGH COURT

DATE

Private Bag X67, Pretoria 0001

GD-PRET-002

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION,
PRETORIA

