

OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF REPUBLIC OF SOUTH AFRICA
MPUMALANGA DIVISION, MBOMBELA (MAIN SEAT)

Case Number: 3153/24

BEFORE THE HONOURABLE ACTING JUDGE: ROELOFSE
DATE: 3 JULY 2024

In the *ex parte* application of:

The National Director of Public Prosecutions

APPLICANT

and

Godisimang Magdaline Molotsane	1 st DEFENDANT
Maganeleni Trading and Projects (Pty) Ltd	2 nd DEFENDANT
Anthony Maganeleng Mashigo	3 rd DEFENDANT
Gladness Gugu Bulunga	4 th DEFENDANT
Thandolwam Transport and Projects (Pty) Ltd	5 th DEFENDANT
Mbombela Intergrated Waste Management Services (Pty) Ltd	6 th DEFENDANT
Orapaleng Molotsane	7 th DEFENDANT
Bandile Jacob Ngcobo	8 th DEFENDANT
Tsidi Susan Sedibe	9 th DEFENDANT
Superia Services Trading Cc	10 th DEFENDANT
Kobus Sifiso Mkhabela	11 th DEFENDANT
Whisky Delisa Khumalo	12 th DEFENDANT
Makulaspan Construction (Pty) Ltd	13 th DEFENDANT
Sipho Ronny Monareng	14 th DEFENDANT
Macdonald Buko Sigudla	15 th DEFENDANT
Thabang Lebo Andiswa Dibakoane	16 th DEFENDANT
Ntando Ms Trading (Pty) Ltd	17 th DEFENDANT
Bongani Edward Lukhele	18 th DEFENDANT
Ligcabho Le'africa Properties (Pty) Ltd	19 th DEFENDANT
Dorries Adelaide Mbatha	20 th DEFENDANT
Oratile Molotsane	1 st RESPONDENT
Ezrom Molotsane	2 nd RESPONDENT

**AN APPLICATION IN TERMS OF SECTION 26 OF THE PREVENTION
OF ORGANISED CRIME ACT (ACT 121 OF 1998)**

**RESTRAINT ORDER COMPELLING SURRENDER OF PROPERTY IN
TERMS OF SECTION 26 OF THE PREVENTION OF ORGANISED
CRIME ACT 121 OF 1998**

HAVING read the documents filed of record before me and having
considered the matter, it is hereby ordered that:

**A PROVISIONAL RESTRAINT AGAINST DEALING WITH REALISABLE
PROPERTY OF THE DEFENDANTS AND THE RESPONDENTS AND AN
ORDER TO DISCLOSE AND SURRENDER SUCH PROPERTY.**

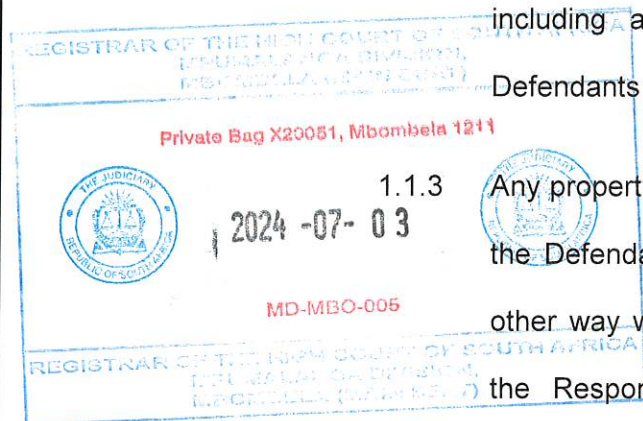
- 1 Pending further Order of this honourable Court, and in terms of **Section 26**
of the **Prevention of Organised Crime Act 121 of 1998 (the POCA)**, as
amended, the following **Provisional Restraint Order** is hereby issued **with
immediate effect**:

THE PROPERTY TO BE DISCLOSED AND SURRENDERED (THE PROPERTY)

- 1.1 This Order relates to **all "realisable property"** as defined in
Sections 12 and 14 of POCA and extends to:

1.1.1 The property specified in the Schedule of Known Assets,
attached as **Annexure "A"** in so far as it remains property
held by the Defendants and the Respondents.

1.1.2 All other property held by the Defendants and the
Respondents at the time of the granting of this Order or
subsequently, whether in their respective names or not,



including all property held for or on behalf of the Defendants and the Respondents.

1.1.3

Any property held by any legal representative on behalf of the Defendants and the Respondents, in trust or in any other way whether received from the Defendants and/or the Respondents or a third party on behalf of the

Defendants and Respondents before or after the granting of this Order.

1.1.4 All property that would be ***“realisable property”***, if transferred to the Defendants and the Respondents.

1.1.5 Any property held by any other person or entity who received an affected gift from the Defendants to the value thereof, whether in the names of such persons, or entities or not.

1.1.6 The bail money deposited by the Defendants or any other person on their behalf in their related criminal case in the Mbombela (Nelspruit) Regional Commercial Crimes Court.

1.2 Provided that the following property, although bound to be **disclosed**, is excluded from the restraint and surrender provisions of this Order:

1.2.1 Property referred to in **Paragraph 1.1.3** which has been specified and its source revealed in relation to which the *curator bonis* appointed under this Order (**the curator**



bonis) is reasonably satisfied by evidence under oath that the property is not realisable property.

1.2.2 Realisable property of any other person or entity who received an “**affected gift**” from the Defendants, in excess of the value of all affected gifts received by the person or entity on the person or entity’s behalf at any time before or after the granting of this Order.

1.3 Provided further that the following property, although **bound to be disclosed and restrained**, is **excluded from the surrender provisions** of this Order, subject to the *curator bonis* retaining satisfactory supervision and control over such assets:

1.3.1 Such clothing, bedding, ordinary household furniture, kitchen and laundry appliances and utensils and other articles (other than luxuries) as the *curator bonis* may consider to be reasonably needed for the day-to-day use of the Defendants and Respondents pending the return day of this Order.

RESTRAINT

1.4 Subject to **Paragraph 2** below, the Defendants and the Respondents, and any other person with knowledge of this Order are hereby prohibited from dealing in any manner with the property, except as required or permitted by this Order.

EXECUTION OF THE ORDER

- 1.5 This Order will be executed under the supervision and control of the *curator bonis*. Representatives of the Applicant (NDPP) may accompany the *curator bonis* to represent the Applicant (NDPP)'s interest in the execution of this Order.



THE CURATOR BONIS

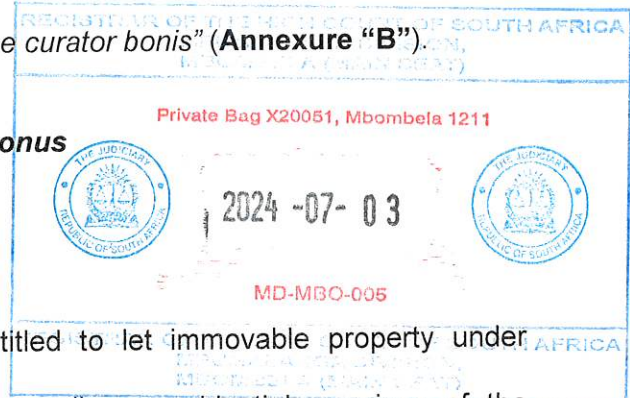
- 1.6 In terms of **Section 28(1)(a)** of POCA, **Mr Yousuf Mohammed Hassen of Nexia SAB&T Practitioners** is hereby appointed as *curator bonis* subject to the applicable provisions of the **Administration of Estates Act 66 of 1965**, as well as the supervision of the Master of the High Court.
- 1.7 The *curator bonis* is exempted from providing a bond of security to the Master of the High Court but is required to take out professional liability insurance to the value of the property taken into his custody, excluding cash which is paid into the *curator bonis*' bank account.
- 1.8 After obtaining letters of curatorship in terms of **Section 32(1)** of POCA, the *curator bonis* is hereby authorised and required to take the property included in **Paragraph 1.1** into his possession or under his control, to take care of such property and to administer it, whether the property is situated inside or outside the Republic of South Africa.
- 1.9 The *curator bonis* shall have such powers, duties, and authority as provided for or implied in the POCA and such further powers as are specified or implied in this Order, which for the avoidance of doubt

includes **Annexure “B”** to this Order headed “*Financial Controls on expenditure incurred by the curator bonis*” (**Annexure “B”**).

Authority and powers of the *curator bonis*

Letting of property

- 1.10 The *curator bonis* is entitled to let immovable property under restraint which is not the ordinary residential premises of the Defendants and Respondents and their households.



Bank accounts

- 1.11 The *curator bonis* will further be entitled to deal with any funds in any bank accounts forming part of the property and is accordingly authorised to hold the necessary signing powers on such accounts and to give directions to banking institutions, and other persons in control of any of those funds regarding the use of such funds.

Location of property

- 1.12 The *curator bonis* shall have the power and authority to act in any capacity required to locate any of the property, to take the property into his possession, to bring the property within the jurisdiction of this Court, to exercise effective control of the property, to take care of the property and to administer the property.
- 1.13 These powers of the *curator bonis* extend to all the property wherever it may be situated in the world.

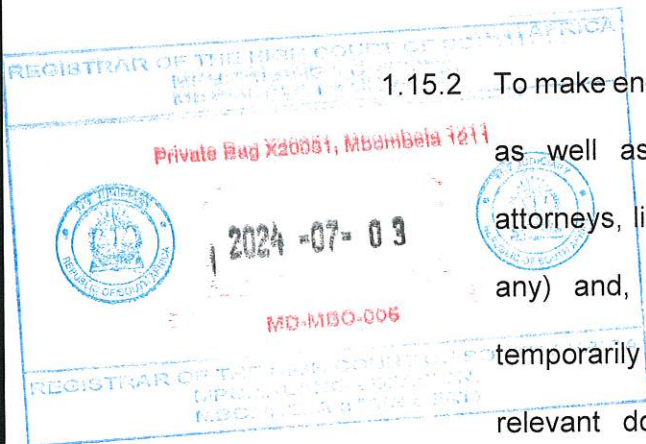
1.14 This Order will thus operate as a power of attorney for the *curator bonis* to deal with all the property in terms of this Order as if he himself were its owner or holder.

1.15 The *curator bonis* is hereby authorised to take all reasonable and lawful steps to discover any fact relating to any of the property, and to locate such property with a view to achieving the objects of this Order, read in the context of the POCA and, in particular, **Section 33(1)** of the POCA, including:

1.15.1 To inspect or temporarily remove and retain, copy, and analyse all documents held by, or any data stored on any computer software or hardware used by the Defendants and the Respondents with a view to tracing further realisable property.

1.15.2 To make enquiries of the Defendants and the Respondents as well as their respective accountants or auditors, attorneys, liquidators and business rescue practitioners (if any) and, pursuant to such enquiries, to inspect or temporarily remove and retain, copy, and analyse all relevant documentation relating to the affairs of the Defendants and the Respondents, with a view to tracing further realisable property.

1.15.3 To contact all financial institutions here and abroad known to or suspected by the *curator bonis* to be holding monies, interests or assets subject to this Order, and to inform such institutions of the existence of the terms of this Order and





to make arrangements for the recovery of such monies, interests and assets.

1.16 The *curator bonis* is further authorised to require any person obliged to make disclosure in terms of this Order to provide such further and specific information under oath as the *curator bonis* considers relevant to any fact that has been so disclosed or that should have been disclosed, which authority shall be exercised with a view to achieving the objects of this Order, read in the context of the POCA and, in particular, section 33(1) thereof.

Shareholding

1.17 The *curator bonis* shall have the power and authority, regarding the shareholdings held by the Defendants and the Respondents in any company, to act as shareholder in the place and stead of the Defendants and the Respondents.

Authorisation to act on behalf of the curator bonis

1.18 The *curator bonis* may, where it is expedient for the effective execution of this Order, authorise 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 may engage such agents, sub-contractors or service providers as he deems necessary; provided that he may not so authorise the Defendants and the Respondents, their family members or any other person in the employ or owing any obligation to the Defendants and the Respondents, including any legal

representative of the Defendants and the Respondents or such related persons.

Conversion of property into cash

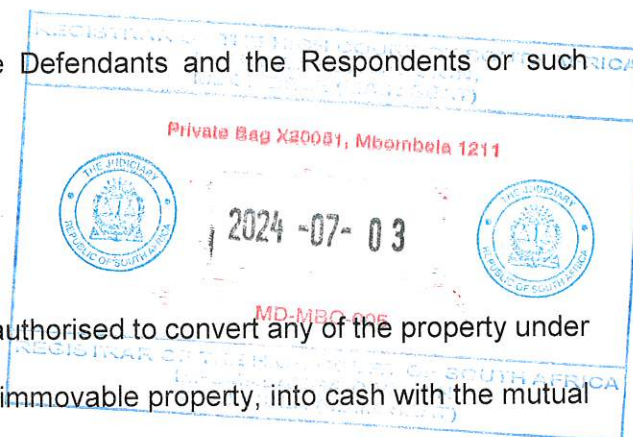
- 1.19 The *curator bonis* is authorised to convert any of the property under his control, including immovable property, into cash with the mutual consent of the Applicant, the owner of the property concerned and any other person or entity who may have a real right therein.

Discontinuation of business

- 1.20 The *curator bonis* is further authorised to discontinue any business under the direct or indirect control of the Defendants and the Respondents if he is of the reasonable view that such business is not a lawful business or that it is not viable to continue running the business in such a way that it does not undermine the purpose of the restraint order including the fact that the cashflow of the business is limited and cannot carry the operational expenses of the business or that the running of the business will deplete the resources of the entity or will diminish the current value of the entity's property, after giving the Applicant, the Defendants and the Respondents, and any other person with an interest in such business at least one month's notice of his intention and his reasons therefore, and considering the response by any such person.

Payment of expenses of natural persons

- 1.21 The *curator bonis* is further authorised to incur such reasonable expenses and costs to protect the value of the assets which will be



detrimentally affected if such payments are not made, for example, maintenance costs of a high value luxury vehicle in his possession, etc as may be necessary or expedient for the administration of the realisable property of the Defendants and the Respondents whose property is under restraint, and to pay same from the realisable property of the relevant entity, subject to the following conditions:

1.21.1 The *curator bonis* may pay, at his discretion, a monthly total amount in respect of such costs and expenses that do not exceed 5% of the average monthly living costs of a natural person subject to this Order calculated with reference to the three months prior to the date of this Order.

1.21.2 If a higher amount is required to defray such costs and expenses, the Defendants and the Respondents must bring an application for payment of living expenses as provided in this Order; failing which, the *curator bonis* must bring an application for the payment of such costs and expenses wherein he sets out at least the following:



1.21.2.1 the need to incur such costs, including satisfying the Court that such costs and expenses are reasonably necessary for the preservation of the value of the restrained property.

1.21.2.2 the available realisable property under his control and potential means to pay for such costs and expenses; and

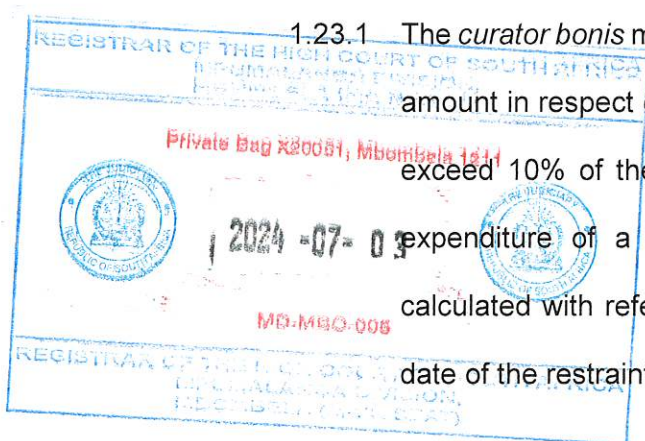
1.21.2.3 whether disclosure as required by this Order has been made to him, and whether, in his opinion, there is other realisable property which is not yet under his control.

1.22 If no liquid assets are available to the *curator bonis* to pay such expenses, whether pursuant to a court order or not, the *curator bonis* will have the power to sell other assets owned by the Defendants and the Respondents in order to properly administer the realisable property. The owner of the relevant restrained property must be consulted as to which assets under restraint should be sold.

Payment of expenses of juristic persons

1.23 The *curator bonis* is further authorised to incur such reasonable expenses and costs as may be necessary or expedient for the operation of a viable business of the Defendants and the Respondents, including the appointment of a managing agent to run any such legitimate business, and to pay same from the realisable property of the relevant entity, subject to the following conditions:

1.23.1 The *curator bonis* may pay, at his discretion, a monthly total amount in respect of such costs and expenses that do not exceed 10% of the average monthly business operating expenditure of a juristic person subject to this Order calculated with reference to the three months prior to the date of the restraint order.



1.23.2 If a higher amount is required to defray such costs and expenses, the Defendants and the Respondents must bring an application for payment of living expenses as provided in this Order; failing which, the *curator bonis* must bring an application for the payment of such costs and expenses wherein he sets out at least the following:

1.23.2.1 the need to incur such costs, including satisfying the Court that such costs and expenses are reasonably necessary for the preservation of the value of the restrained property.

1.23.2.2 the available realisable property under his control and potential means to pay for such costs and expenses; and

1.23.2.3 whether disclosure as required by this Order has been made to him, and whether, in his opinion, there is other realisable property which is not yet under his control.

1.23.3 If no liquid assets are available to the *curator bonis* to pay such expenses, whether pursuant to a court order or not, the *curator bonis* will have the power to sell other assets owned by the Defendants and the Respondents in order to properly administer the realisable property. The owner of the relevant restrained property must be consulted as to which assets under restraint should be sold.



Expenses for the full and proper performance of his functions under this Order

- 1.24 The *curator bonis* is permitted to engage such assistance of a legal, accounting, administrative, or other professional or technical nature as may be reasonably required for the full and proper performance of his functions under this Order, and the costs of such assistance rendered to the *curator bonis* is regarded as a cost of the curatorship to be paid in the manner set out below.

Duties of the *curator bonus*

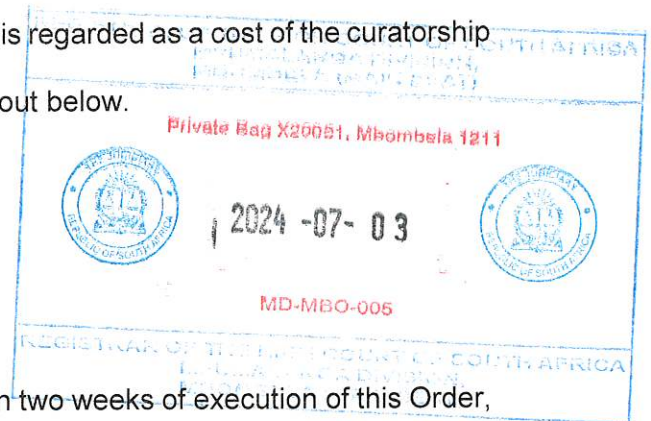
Inventory of assets under his control

- 1.25 The *curator bonis* shall, within two weeks of execution of this Order, submit an inventory of assets under his control to the Master in the prescribed form.

Addresses for service and interim report

- 1.26 The *curator bonis* is required and directed, to serve, within 35 days of the granting of this Order, on the Applicant's attorney, and on any other party who may have delivered notice of intention to oppose the confirmation of this Order, at the address given by such party for the service of documents, and to file with the Registrar of this Court, together with a copy for delivery to the Master of the High Court, an interim report in which he shall set out:

- 1.26.1 A description and a sworn valuation (market-value as well as forced-sale-value) of each item of property of which he has taken possession or control in terms of this Order.





Each item shall be allocated a serial number by the *curator bonis* and the description will include its manufacturer's serial number (if any) and the make, model and year of manufacture of any vehicle or electronic or photographic equipment.

- 1.26.2 In respect of any item that the *curator bonis* may have obtained from any person other than the Defendants and the Respondents (**third party**), or over which he may have assumed control whilst leaving it in the possession of a third party, the name and address of the third party, together with a description of the item and a statement of the grounds upon which he took possession or control of it.
- 1.26.3 The way he has dealt with or intends to deal with the property taken into his possession or under his control, including the continuation of any legitimate business, if applicable.
- 1.26.4 The details of, and reason for, any discretionary payment of expenses he has made.
- 1.26.5 The value he intends to certify as provided in para **Error! Reference source not found.** above; and
- 1.26.6 Any other recommendation that he may see fit to make regarding any realisable property of which he has not by then obtained possession or control; or in respect of the definition or extension of his powers and duties; or in

respect of any other aspect of this matter directed to achieving the objects of the POCA.

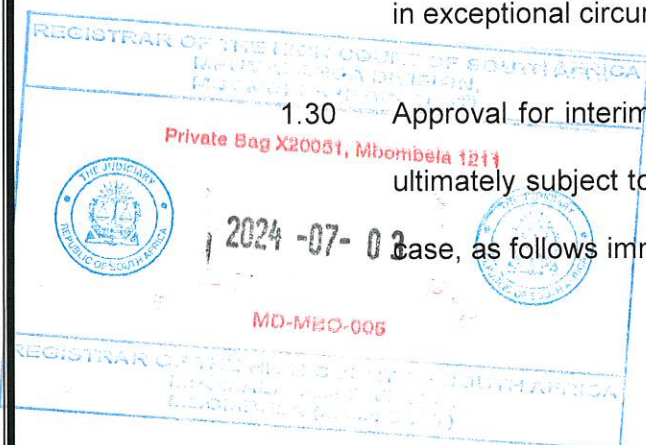
Quarterly reports

- 1.27 The *curator bonis* is further directed to thereafter file quarterly reports to the Registrar of the Court, the Master of the High Court, the Applicant, and any party opposing the confirmation of the *rule nisi*. In addition to reporting on the progress in the case, the quarterly report shall include a description of any new property that was seized or identified and contain the information referred to in the previous paragraph.

Interim payment of curator expenses and fees

- 1.28 The *curator bonis* may request the Head: Enforcement in writing to approve interim payments by the National Prosecuting Authority (**the NPA**) of his proven fees or costs and expenses and shall be entitled to payment within 60 days of approval being granted, including interest not exceeding the prime lending rate of the major financial institutions upon failure to do so.
- 1.29 The payment of interim **fees** or part thereof should only be approved in exceptional circumstances.

- 1.30 Approval for interim payment is at the discretion of the NPA, and ultimately subject to the prescripts applied at the finalisation of the case, as follows immediately below.



Costs of the curatorship upon conclusion of the proceedings

1.31 The **expenditure** incurred by the *curator bonis*, that is, costs and expenses incurred by him as are necessary for the proper execution of his duties and as approved by the Master of the High Court shall be paid as follows:

1.31.1 from the proceeds of the realised property in terms of **Section 30(2)** of POCA, after all other claims against the realised property have been paid out, if a confiscation order is granted against the Defendants and the Respondents; or

1.31.2 by the Defendants and the Respondents, to the extent that insufficient realised property in terms of **Section 30(2)** of POCA is available.

1.32 The **fees** of the *curator bonis* as approved by the Master of the High Court, shall be paid as follows:

1.32.1 from the proceeds of the realised property in terms of **Section 30(2)** of POCA, after all other claims against the realised property have been paid out if a confiscation order is granted against the Defendants and the Respondents.

1.32.2 by the Defendants and the Respondents, to the extent that insufficient realised property in terms of s 30(2) of POCA is available; and

1.32.3 by the State if no confiscation order is made.



1.32.4 Provided that the State may apply, prior to the conclusion of the proceedings against the Defendants and the Respondents under Chapter 5, for an order that the *curator bonis*' fees are to be paid for by the Defendants and the Respondents, either from the realisable assets or failing which in the ordinary course, regardless of whether a confiscation order is made.

SURRENDER OF ASSETS

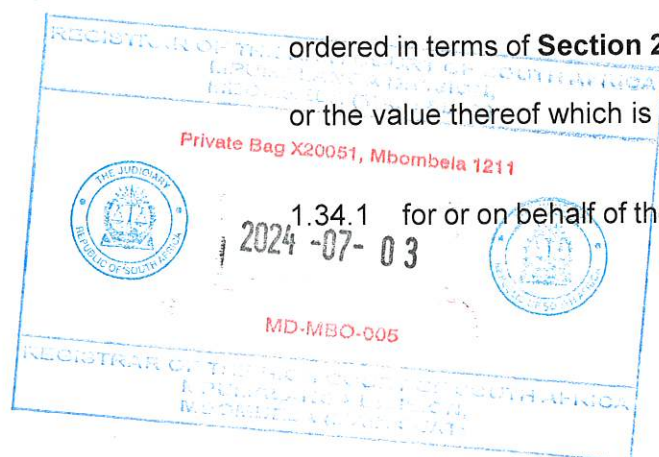
By Defendants and Respondents

1.33 The Defendants and the Respondents are hereby ordered in terms of **Section 28(1)(b)** of the POCA to surrender the property into the custody of the *curator bonis* forthwith after the *curator bonis* has identified himself by displaying a copy of this Order whether they have been formally served with a copy of this Order or not.

By third parties

1.34 Any other person (**a third party**) who is in possession or control of any of the property to which this Order relates and who in any way receives notice or acquires knowledge of this Order is hereby ordered in terms of **Section 28(1)(b)** of POCA to surrender property or the value thereof which is held:

1.34.1 for or on behalf of the Defendants and the Respondents; or



1.34.2 because the party received an affected gift as defined in **Sections 12(1) and 16** of POCA from the Defendants and the Respondents

into the custody of the *curator bonis* forthwith but not later than 24 hours after receiving notice or acquiring knowledge of this Order.

1.35 The Applicant may apply to join such third party as a Respondent to the proceedings where deemed necessary.

Repatriation

1.36 Any person who, in terms of this Order, is required to surrender any of the property to the *curator bonis*, shall, where any such property is held or is situated outside of the Republic of South Africa, repatriate the property concerned in consultation with the *curator bonis* to comply with the obligation to surrender



Release of property

1.37 The *curator bonis* shall have the discretion to release any of the property back into the custody of the person who held it, under conditions the *curator bonis* deems appropriate for its proper administration and preservation, and subject to the *curator bonis* imposing reasonable controls over such property to:

1.37.1 retain sufficient control over such property; and

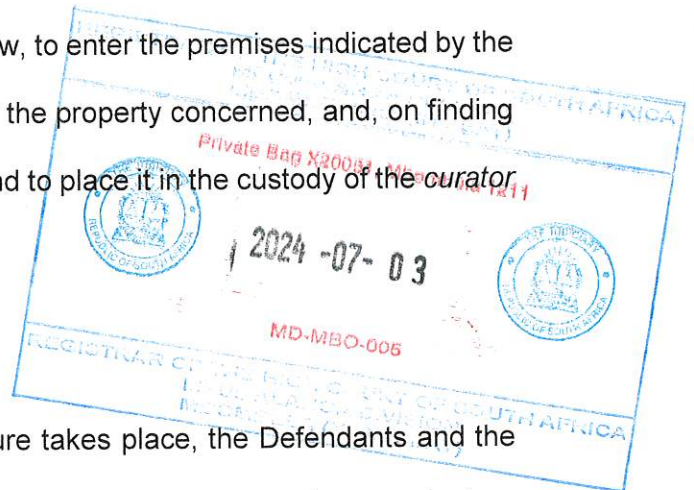
1.37.2 ensure the preservation of the value and/or physical state of such property.

SEARCH AND SEIZURE

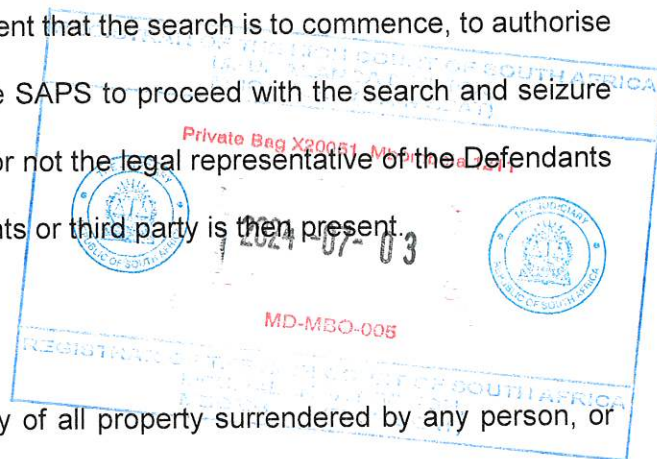
- 1.38 If the *curator bonis*, after requiring the surrender of property in accordance with this Order, should at any time have reasonable grounds for believing that the Defendants and the Respondents or third party who has become obliged to surrender any property in accordance with this Order have failed to do so, the *curator bonis* may give any member of the South African Police Service (**SAPS**) the particulars of the property concerned, the name of the Defendants and the Respondents or third party suspected of being in possession of it, and the address at which he suspects the property may be found; and the member of the SAPS will thereupon be authorised by this Order, without further enquiry, but subject to the safeguards set out below, to enter the premises indicated by the *curator bonis*, to search for the property concerned, and, on finding such property, to seize it and to place it in the custody of the *curator bonis*.

SAFEGUARDS

- 1.39 Before any search or seizure takes place, the Defendants and the Respondents or third party whose premises are to be searched, or from whose possession property is to be seized, shall be afforded a reasonable opportunity, under the supervision of the *curator bonis* and/or any member of the SAPS who may be present, to summon a legal representative to be present during the search and seizure.
- 1.40 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 Defendants and the Respondents or third party appears to be using the delay to create an opportunity to dissipate or 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* is hereby empowered, after warning those present that the search is to commence, to authorise the members of the SAPS to proceed with the search and seizure forthwith, whether or not the legal representative of the Defendants and the Respondents or third party is then present.

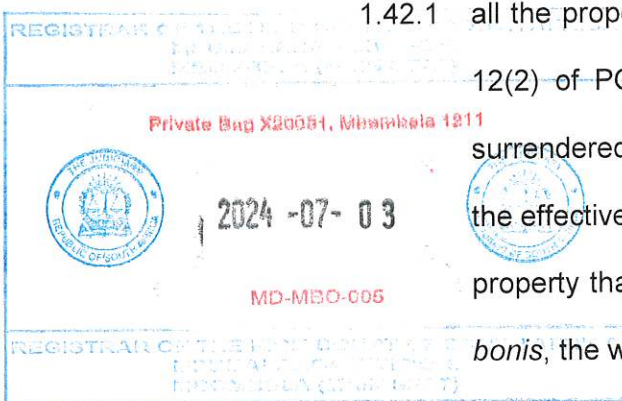


INVENTORY

- 1.41 A detailed inventory of all property surrendered by any person, or seized, must be prepared by the *curator bonis* at the time of the surrender or the seizure. The person from whose possession the property is taken, or his or her legal representative, must be afforded an opportunity to check the inventory and either to sign it as correct or to note any alleged inaccuracy on it. A copy of the inventory must be left with the person from whose possession any property is taken.

DISCLOSURE BY DEFENDANTS AND THE RESPONDENTS

- 1.42 In terms of **Section 26(7)** of POCA, the Defendants and the Respondents are hereby ordered to disclose to the *curator bonis* on affidavit in the form as the *curator bonis* may determine forthwith, and in any event by no later than **within 10 days** of service of notice of this Order, a description, value estimate (including claims against the property whether proven or not), and the whereabouts of:



1.42.1 all the property (as defined in section 1 read with section 12(2) of POCA), whether or not it has been physically surrendered into the possession or otherwise placed under the effective control of the *curator bonis*, and in the case of property that has not yet been surrendered to the *curator bonis*, the whereabouts of such property.

1.42.2 all the property which, according to the present knowledge of the Defendants and the Respondents is to be transferred to them at any time; and

1.42.3 all affected gifts as defined in **Sections 12(1) and 16** of the POCA, made by the Defendants and the Respondents, or received by the third party on behalf of the Defendants and the Respondents, together with the name and address of the donee and the value thereof.

1.43 The Defendants and the Respondents who hold property on behalf of the Defendants and the Respondents are further required, on or before the 7th day of each month, to provide the *curator bonis* under oath with monthly income and expenditure statements together with supporting documentation.

DISCLOSURE BY DONEES OF AFFECTED GIFTS

1.44 Any person or entity who is, or who becomes aware of this Order and who has received from the Defendants and the Respondents any affected gift as defined in **Sections 12(1) and 16** of POCA, is hereby ordered in terms of **Section 26(7)** of POCA to deliver to the

curator bonis, **within 10 days** after coming to know of this Order,
an affidavit in which he or she shall set out:

1.44.1 the nature of the property which wholly or in part
constituted a gift.

1.44.2 the date on which it was made over to the donee.

1.44.3 the value of such property at the date of the gift.

1.44.4 the value of any consideration given for such property.

1.44.5 whether or not the donee has retained the property in the
form in which he or she received it.

1.44.6 if not, the manner and date of its alienation, the nature and
value of the consideration received by the donee, and the
proportion of such consideration that represented the gift;

2024 -07- 03 and
1.44.7 the nature and value of the property which, in terms of
Section 20(3)(b) of POCA, directly or indirectly represents
in the hands of the donee property into which the gift has
been converted, and the proportion of such property that
currently represents the gift.

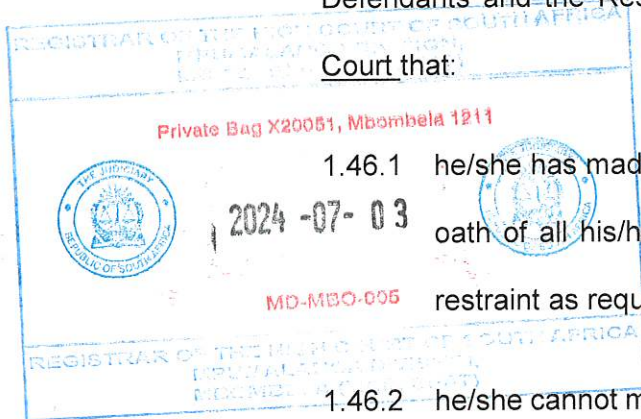
**INDEMNITY FROM USE IN CRIMINAL TRIAL OF DISCLOSURE MADE IN
COMPLIANCE WITH THE ORDER**

1.45 No disclosure made in compliance with this Order which would tend
to expose the person making the disclosure to a criminal charge

pertaining to the said disclosure, shall be used in evidence in the prosecution of an offence alleged to have been committed by the person who made the disclosure: provided that this indemnity shall not extend to any evidence going beyond the requirements of this Order, and provided further that this indemnity shall not have the effect of preventing the use of any evidence provided by the person making the disclosure referred to above as evidence in any trial in which the person making the disclosure is charged with perjury in respect of the evidence so provided.

LIVING AND LEGAL EXPENSES AS PROVIDED UNDER SECTION 26(6) OF POCA

- 1.46 The Court may make an order for the release of realisable property under the control of the *curator bonis* on application of the Defendants and the Respondents if the applicant(s) satisfies the Court that:



- 1.46.1 he/she has made full disclosure to the *curator bonis* under oath of all his/her interests in the property subject to the restraint as required by this Order; and
- 1.46.2 he/she cannot meet the expenses concerned out of his/her unrestrained property.

- 1.47 Such order would be aimed at meeting:

- 1.47.1 In the case of natural person(s), the reasonable prospective living expenses of such person and his/her family and household; and

1.47.2 In the case of juristic person(s), the reasonable prospective operating expenses of such juristic person; and/or

1.47.3 In the case of either a natural or juristic person, the reasonable current and prospective legal expenses of such person in connection with any proceedings instituted against him/her in terms of Chapter 5 of POCA or any criminal proceedings to which such proceedings relate.

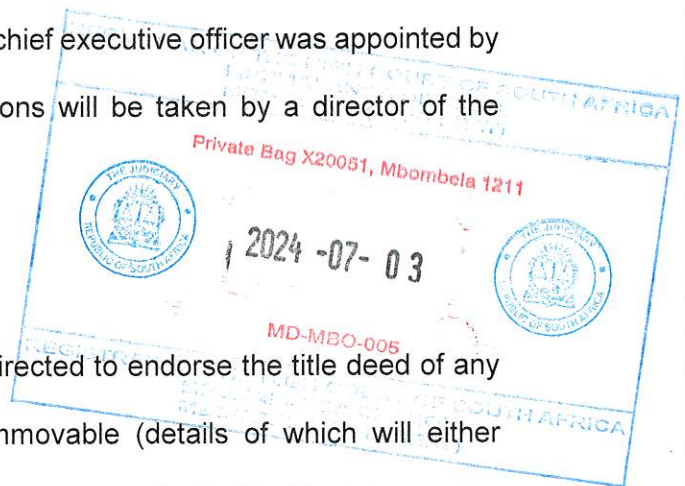
CHIEF EXECUTIVE OFFICER TO ACT ON BEHALF OF COMPANIES IN COMPLYING WITH THE ORDER

1.48 When a representative of a company is required in terms of the POCA or this order to take a certain action such as filing a disclosure affidavit or opposing the order, the action shall be carried out by its chief executive officer. If no chief executive officer was appointed by such a company, such actions will be taken by a director of the company.

THE REGISTRAR OF DEEDS

1.49 The Registrar of Deeds is directed to endorse the title deed of any of the property which is immovable (details of which will either appear from **Annexure "A"** or be supplied to the Registrar by the *curator bonis*) with the following restriction, namely, that the property shall not, without the consent of this Court:

1.49.1 be mortgaged or otherwise encumbered.



1.49.2 be attached or sold in execution (subject to the powers afforded to the *curator bonis* in **Paragraphs 1.10 and 1.20** above); and

1.49.3 vest in the Master of the High Court, or the trustee of the insolvent estate of the owner, if the estate of the owner should be sequestrated.

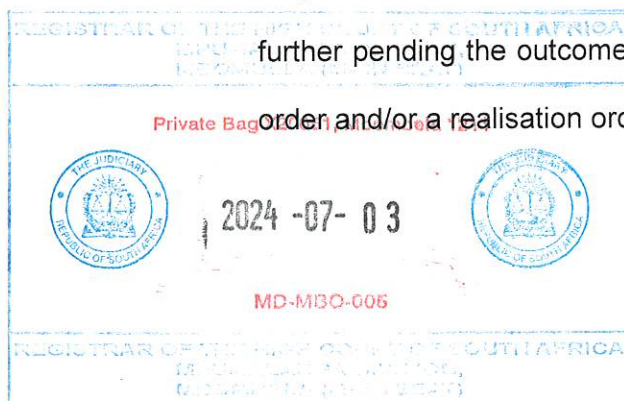
REFUSAL OR FAILURE TO COMPLY WITH THE ORDER, AN OFFENCE

1.50 In terms of **Section 75(2), read with section 75(4)** of the POCA, any person who intentionally refuses or fails to comply with this Order shall be guilty of an offence and shall be liable on conviction to a fine or to a period of imprisonment of up to **15 years**.

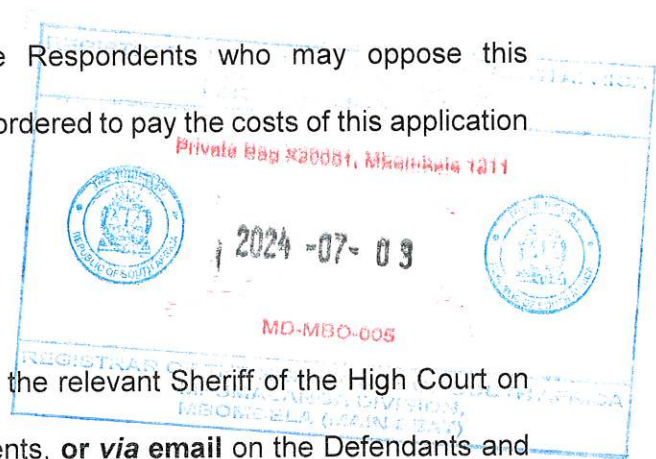
RETURN DAY AND COSTS

2 The Provisional Order made in **Paragraph 1** above is returnable on **Friday 6 September 2024**, and a rule *nisi* is hereby issued calling upon the Defendants and the Respondents to show cause, if any, on the return day why:

2.1 the Provisional Order in **Paragraph 1** should not be confirmed pending the outcome of the trial of the Defendants in the Mbombela Regional Commercial Crimes Court on the relevant charges and further pending the outcome of any proceedings for a confiscation order and/or a realisation order that may follow on the trial; and



- 2.2 the Defendants and the Respondents who may oppose this application should not be ordered to pay the costs of this application jointly and severally.



SERVICE

- 3 There is to be service forthwith by the relevant Sheriff of the High Court on the Defendants and the Respondents, **or via email** on the Defendants and the Respondents or their legal representatives appointed by them, or by a member of the SAPS in case of a *nulla bona* return of service of:

3.1 this Order, including Annexures "A", "B", and "C"; and

3.2 the Notice of Motion and its founding and supporting affidavits and annexures thereto.

- 4 Alternatively, the Applicant (**NDPP**) may provide the Defendants and the Respondents access to a site from where the documents referred to in par 3 can be accessed and downloaded.

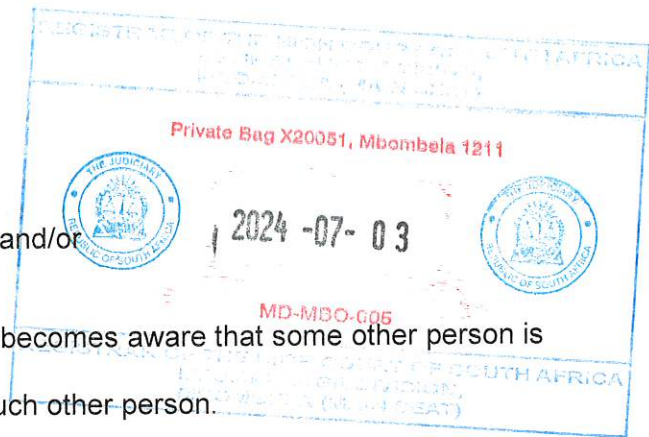
- 5 In the exceptional case where the Defendants and the Respondents are not skilled enough to access documents served in the manner prescribed above or does not have electronic resources available such as a computer or internet connection available, the Applicant (**NDPP**) shall make arrangements with such party on request to the State Attorney to provide the documents to him/her in another way.

NOTICE TO OTHER PERSONS AFFECTED

- 6 In terms of **Section 26(4)(a)** of the POCA, the Applicant is directed forthwith to give notice of this Order, by delivering a copy by email or through access

to a site from where the documents can be downloaded to the following persons:

- 6.1 The *curator bonis*;
- 6.2 The Registrar of Deeds; and/or
- 6.3 Whenever the Applicant becomes aware that some other person is affected by this Order, such other person.



OPPOSITION

- 7 The Defendants and Respondents who intend to oppose the confirmation of this Provisional Order on the return day must, **within 5 Court days** of the service of this Order on him or her, deliver a notice of intention to oppose and furnish an address **within 15 kilometers** of the office of the Registrar of this Court at which he or she will accept service of all notices, affidavits and other documents in these proceedings; and **must** deliver his or her answering affidavit, if any, within **15 days** of notifying the Applicant (NDPP) of his or her intention to oppose the application.

ANTICIPATION OF RETURN DAY

- 8 In accordance with **Section 26(3)(c)** of the POCA, the Defendants and the Respondents may make application to anticipate the return day for the purpose of discharging or varying the Provisional Order on **not less than 48 hours'** notice of such application to the Applicant (NDPP) and the *curator bonis*.



BY ORDER OF THE COURT



REGISTRAR

ANNEXURE "A"

IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION MBOMBELA (MAIN SEAT)

Case Number:

In the *ex parte* application of:

The National Director of Public Prosecutions

APPLICANT

and

Godisimang Magdaline Molotsane	1 st DEFENDANT
Maganeleni Trading and Projects (Pty) Ltd	2 nd DEFENDANT
Anthony Maganeleng Mashigo	3 rd DEFENDANT
Gladness Gugu Bulunga	4 th DEFENDANT
Thandolwam Transport and Projects (Pty) Ltd	5 th DEFENDANT
Mbombela Intergrated Waste Management	
Services (Pty) Ltd	6 th DEFENDANT
Orapaleng Molotsane	7 th DEFENDANT
Bandile Jacob Ngcobo	8 th DEFENDANT
Tshidi Susan Sedibe	9 th DEFENDANT
Superia Services Trading CC	10 th DEFENDANT
Kobus Sifiso Mkhabela	11 th DEFENDANT
Whisky Delisa Khumalo	12 th DEFENDANT
MakhulaSpan Construction (Pty) Ltd	13 th DEFENDANT
Sipho Ronny Monareng	14 th DEFENDANT
Macdonald Buko Sigudla	15 th DEFENDANT
Thabang Lebo Andiswa Dibakoane	16 th DEFENDANT
Ntando MS Trading (Pty) Ltd	17 th DEFENDANT
Bongani Edward Lukhele	18 th DEFENDANT
Ligcabho Le'Africa Properties (Pty) Ltd	19 th DEFENDANT
Dorries Adelaide Mbatha	20 th DEFENDANT

Oratile Molotsane

1st RESPONDENT

Ezrom Molotsane

2nd RESPONDENT

AN APPLICATION IN TERMS OF SECTION 26 OF THE PREVENTION OF
ORGANISED CRIME ACT (ACT 121 OF 1998)

SCHEDULE OF KNOWN ASSETS

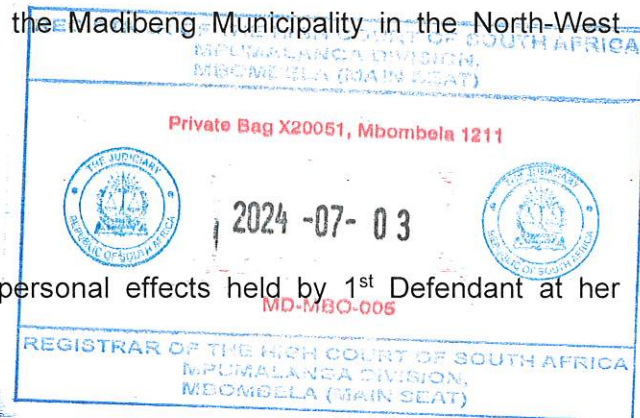
THE 1ST DEFENDANT (GODISAMANG MAGDALINE MOLOTSANE)

Immovable property

- 1 A full title Erf 79, Everglades Estate, West Lake Country and Safari Estate, Hartbeespoort, in the Madibeng Municipality in the North-West province.

Movable Property

- 2 All household goods and personal effects held by 1st Defendant at her residential address.



Vehicles

- 3 A 2011 model Mercedes-Benz with registration number KTJ707NW and vehicle register number PBP195W.

Bank accounts

- 4 All bank accounts held at all banking institutions in the name of the 1st Defendant.

Bail money

- 5 All bail money paid by the 1st Defendant in her related criminal case(s) in the Mbombela (Nelspruit) Regional Specialised Commercial Crimes Court (SCCC).

THE 2ND DEFENDANT (MAGANELENI TRADING AND PROJECTS (PTY) LTD)

Vehicles

- 6 A 2017 Nissan NP 200 1.6 8V vehicle with registration number **KBW422MP** and vehicle register number XYW378W.
- 7 A 2017 Nissan NP 200 1.6 8V vehicle with registration number **KBW425MP** and vehicle register number XZH870W. **Private Bag X20051, Mbombela 1211**

Bank accounts

- 8 All bank accounts held at all banking institutions in the name of the 2nd Defendant.



Bail money

- 9 All bail money paid by the 2nd Defendant in its related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 3RD DEFENDANT (ANTHONY MAGANELENG MASHIGO)

Bank accounts

- 10 All bank accounts held at all banking institutions in the name of the 3rd Defendant.

Movable Property

- 11 All household goods and personal effects held by 3rd Defendant at his residential property.

Bail money

- 12 All bail money paid by the 3rd Defendant in its related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

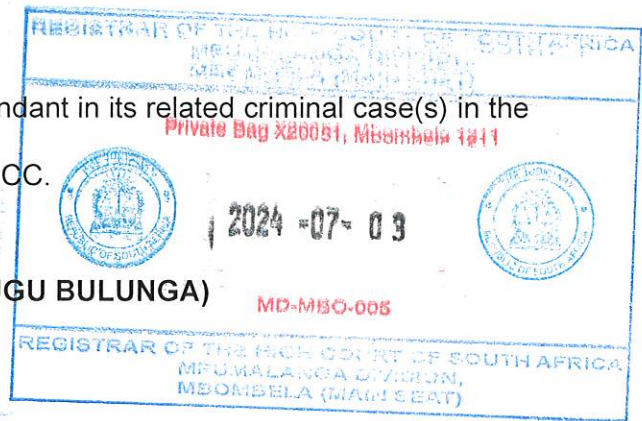
THE 4TH DEFENDANT (GLADNESS GUGU BULUNGA)

Movable Property

- 13 All household goods and personal effects held by 4th Defendant at her last known residential address at 25 Pebble Beach Close, White River Country Estate, White River, Mpumalanga province.
- 14 Alternatively, if the 4th Defendant is not residing at 25 Pebble Beach Close anymore, then all household goods and personal effects held by the 4th Defendant at her current residential property that may be seized in terms of the restraint order.

Vehicles

- 15 A **2010** model Opel Corsa 1.4 with registration number **JYK747MP** and vehicle register number DHM574K.
- 16 A **2015** model VW Polo VIVO 1.4 with registration number **JGM844MP** and vehicle register number GNV483K.



17 A **2018** model VW Polo VIVO with registration number **KCC642MP** and vehicle register number HLH379K.

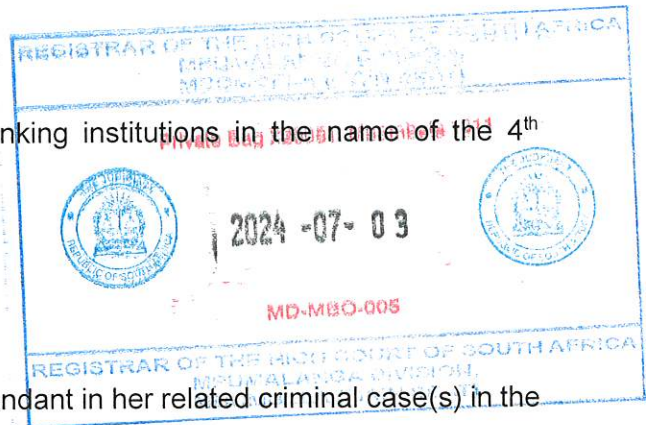
18 A **2018** model Mercedes Benz C 180 with registration number JVB738MP and register number YXZ281W.

Bank accounts

19 All bank accounts held at all banking institutions in the name of the 4th Defendant.

Bail money

20 All bail money paid by the 4th Defendant in her related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.



THE 5TH DEFENDANT (THANDOLWAM TRANSPORT AND PROJECTS (PTY) LTD)

Bank accounts

21 All bank accounts held at all banking institutions in the name of the 5th Defendant.

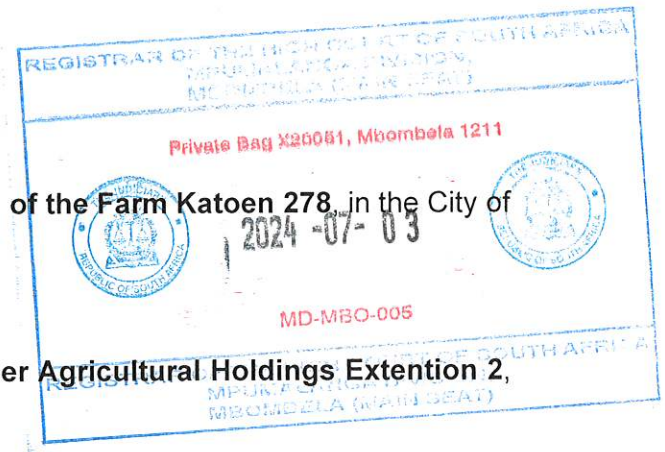
Bail money

22 All bail money paid by the 5th Defendant in its related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 6TH DEFENDANT (MBOMBELA INTERGRATED WASTE MANAGEMENT SERVICES (PTY) LTD)

Immovable Property

- 23 **Portion 20 (A portion of portion 1) of the Farm Katoen 278, in the City of Mbombela, Mpumalanga province.**
- 24 **Portion 1 of Holding 94 White River Agricultural Holdings Extention 2, White River, Mpumalanga province.**
- 25 **Erf 185, Komatipoort Township in the Nkomazi Municipality, Mpumalanga.**
- 26 **Portion 3 of Holding 6 of the White River Estates Central Section Agricultural Holdings in White River, Mpumalanga province.**



Vehicles

- 27 A **2010** model Hino Profia 57-450 Tipper with registration number **HYF924MP** and vehicle register number CYF943L.
- 28 A **2006** model Hino Profia 57-450 Tipper with registration number **DKY474MP** and vehicle register number HPM982S.
- 29 A **2018** model Mercedes Benz GLS350D with registration number **JVF476MP** and vehicle register number YJD402W.

Bank accounts

- 30 All bank accounts held at all banking institutions in the name of the 6th Defendant.

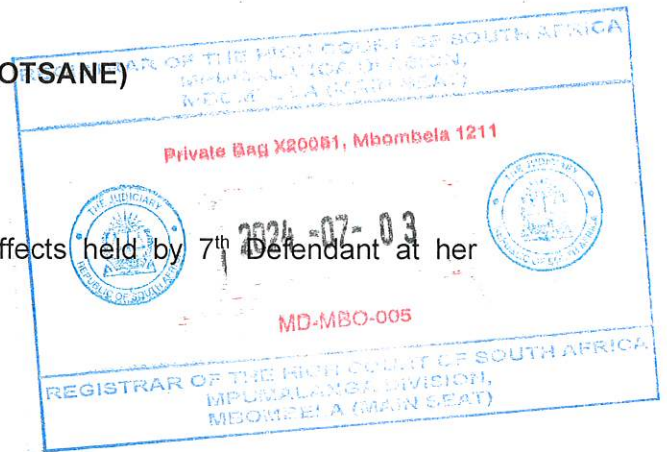
Bail money

- 31 All bail money paid by the 6th Defendant in its related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 7TH DEFENDANT (ORAPALENG MOLOTSANE)

Movable Property

- 32 All household goods and personal effects held by 7th Defendant at her residential property.



Vehicles

- 33 A **2015** model Toyota Corolla 1.8 High CVT vehicle with registration number **KJS545NW**, and vehicle register number **FXB605L**.

Immovable Property

- 34 A **Farm 464, portion number 113, Groenkloof 464JQ in Modderspruit, Brits**, in the Madibeng Municipality in North – West province.

Bank accounts

- 35 All bank accounts held at all banking institutions in the name of the 7th Defendant, and all her linked entities as mentioned above.

Bail money

- 36 All bail money paid by the 7th Defendant in her related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 8TH DEFENDANT (BANDILE JACOB NGCOBO)

Movable Property

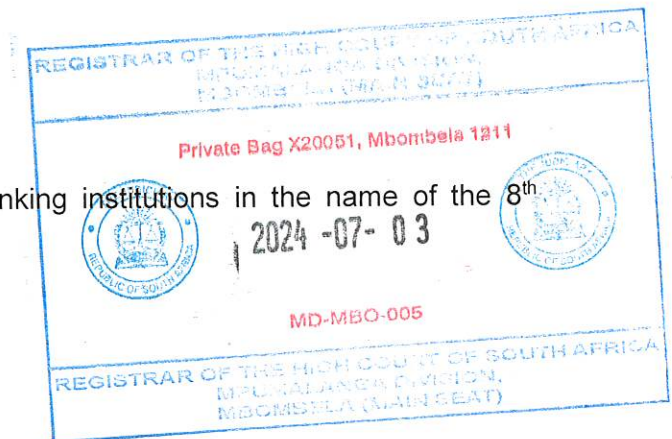
- 37 All household goods and personal effects held by 8th Defendant at his residential property.

Bank accounts

- 38 All bank accounts held at all banking institutions in the name of the 8th Defendant.

Bail money

- 39 All bail money paid by the 8th Defendant in his related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.



THE 9TH DEFENDANT (TSHIDI SUSAN SEDIBE)

Movable Property

- 40 All household goods and personal effects held by 9th Defendant at her residential property.

Bank accounts

- 41 All bank accounts held at all banking institutions in the name of the 9th Defendant.

Bail money

- 42 All bail money paid by the 9th Defendant in her related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 10TH DEFENDANT (SUPERIA SERVICES TRADING CC)

Vehicles

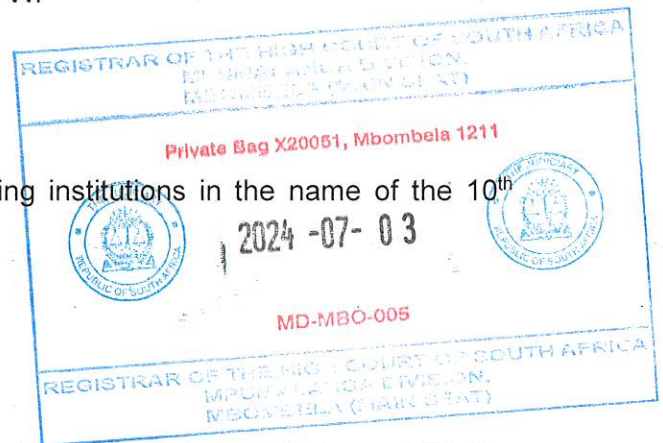
- 43 A **2011** model Nissan Hardbody LWB SC 4x2 with registration number **HHW776MP** and vehicle register number PDS975W.
- 44 A **2015** model Nissan NP 200 1.6 8V with registration number **HSM175MP** and vehicle register number VZF599W.
- 45 A **2015** model Nissan NP 200 1.6 8V with registration number **HSM179MP** and vehicle register number VZF677W.

Bank accounts

- 46 All bank accounts held at all banking institutions in the name of the 10th Defendant.

Bail money

- 47 All bail money paid by the 10th Defendant in its related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.



THE 11TH DEFENDANT (KOBUS SIFISO MKHABELA)

Immovable Property

- 48 Erf 1830, 6 Robin Street, Kamagugu, Mbombela, Mpumalanga Province.

Movable Property

- 49 All household goods and personal effects held by 11th Defendant at his residential property.

Vehicles

- 50 A **2018** model VW 326 Tiguan 2.0D 081 FM6 with registration number **JNP468MP** and vehicle register number HGW224K.
- 51 A **2010** model Mercedes- Benz C180 CGI BE with registration number **FKL347MP** and vehicle register number NLK001W.

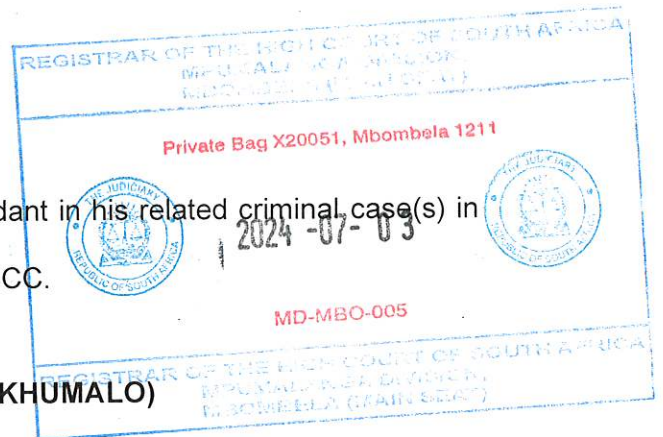
Bank accounts

- 52 All bank accounts held at all banking institutions in the name of the 11th Defendant.

Bail money

- 53 All bail money paid by the 11th Defendant in his related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 12TH DEFENDANT (WHISKY DELISA KHUMALO)



Immovable Property

- 54 **Erf 815 Tshabalala Extension 1 Township, JU Mpumalanga province.**

Movable Property

- 55 All household goods and personal effects held by the 12th Defendant at his residential property.

Vehicles

- 56 A **2021** Boat Trailer with registration number **KGZ797MP** and vehicle register number CMH879X.

57 A **2007** model Toyota Auris 1.6 RT 5M07 with registration number **DSC143MP** and vehicle register number KPS234S.

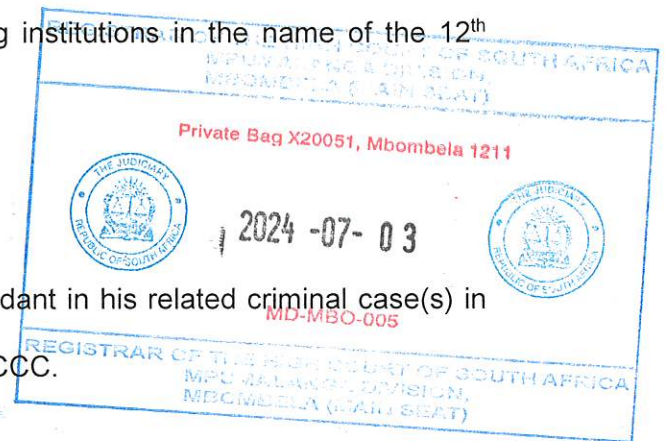
58 A **2009** Toyota Hilux 2.5 4x2 SC vehicle with registration number **KRR121MP** and vehicle register number DCG538L.

Bank accounts

59 All bank accounts held at all banking institutions in the name of the 12th Defendant.

Bail money

60 All bail money paid by the 12th Defendant in his related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.



THE 13TH DEFENDANT (MAKULASPAN CONSTRUCTION (PTY) LTD)

Vehicles

61 A **2017** model Nissan NP 200 1.6 8V EO with registration number **JHM861MP** and vehicle register number XYP438W.

Bank accounts

62 All bank accounts held at all banking institutions in the name of the 13th Defendant.

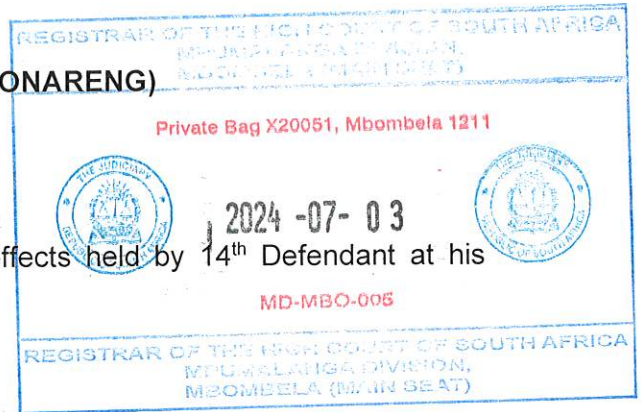
Bail money

63 All bail money paid by the 13th Defendant in its related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 14TH DEFENDANT (SIPHO RONNY MONARENG)

Movable Property

- 64 All household goods and personal effects held by 14th Defendant at his residential property.



Vehicles

- 65 A **2013** model VW Amarok 2.0D 132 HM6-282 with registration number **HFJ526MP** and vehicle register number FPS042K.

Bank accounts

- 66 All bank accounts held at all banking institutions in the name of the 14th Defendant.

Bail money

- 67 All bail money paid by the 14th Defendant in his related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 15TH DEFENDANT (MACDONALD BUKO SIGUDLA)

Immovable property

- 68 A full title **Erf 2307, Leeukop Road, Waterkant Estate, White River**, City of Mbombela, Mpumalanga province.

Movable Property

- 69 All household goods and personal effects held by 15th Defendant at his residential property.

Vehicles

- 70 A **2017** model Nissan Navara 2.3 LE 4x4AT DC with registration number **JMM494MP** and vehicle register number YDR535W.



Bank accounts

- 71 All bank accounts held at all banking institutions in the name of the 15th Defendant.

Bail money

- 72 All bail money paid by the 15th Defendant in his related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 16TH DEFENDANT (THABANG LEBO ANDISWA DIBAKOANE)

Immovable Property

- 73 A **Sectional Title Scheme** unit named **SS Lombardy Meander** with scheme number 150/2020, **unit number 214**, 2241, Paradiso, Pretoria, in the City of Tshwane Municipality, Gauteng province.

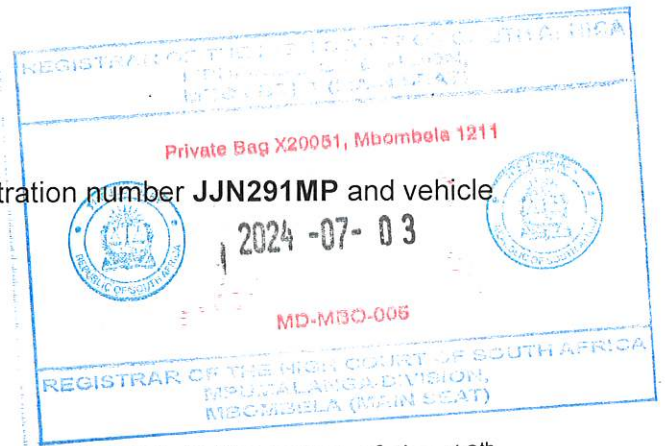
Movable Property

- 74 All household goods and personal effects held by 16th Defendant at his residential property.

Vehicles

- 75 A **2020** model 1800 Karet Van Body with registration number **JZD545MP** and vehicle register number BVY610MP.

- 76 A **2017** model Toyota Etios with registration number **JJN291MP** and vehicle register number **GWX588L**.



Bank accounts

- 77 All bank accounts held at all banking institutions in the name of the 16th Defendant.

Immovable property

- 78 **Holding number 89, Portion 3 of the White River Estate Central Section AH** in the Mbombela Local Municipality, Mpumalanga province.
- 79 A full title **Erf 199, 11 Protea Crescent, Kings View Ext 1, White River**, in the City of Mbombela Municipality, Mpumalanga province.

Bail money

- 80 All bail money paid by the 16th Defendant in his related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 17TH DEFENDANT (NTANDO MS TRADING (PTY) LTD)

Immovable property

- 81 A **Sectional Title Scheme unit named SS Ocean Terraces** with scheme number 183/2023, **Unit Number 28**, in 2 Sanderling Road, Muizenberg, Western Cape, in the City of Cape Town Municipality, Western Cape province.

Bank accounts

- 82 All bank accounts held at all banking institutions in the name of the 17th Defendant.



Bail money

- 83 All bail money paid by the 17th Defendant in its related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

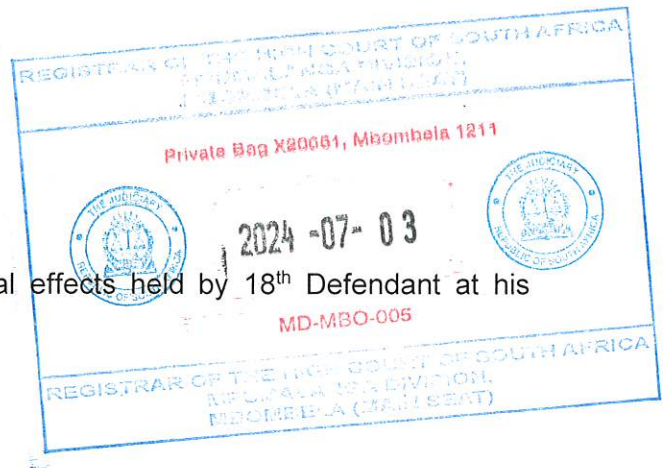
THE 18TH DEFENDANT (BONGANI EDWARD LUKHELE)

Immovable Property

- 84 A Full title, Erf 1160, portion number 37, with street address as 5 Swallow Street, Stonehenge, Mbombela in the City of Mbombela municipality, Mpumalanga province.
- 85 A full Title, Erf 296, Riverside Park, Extension 5, in the Elawini Lifestyle Estate in Mbombela in the Thaba Chweu Municipality in Mpumalanga.
- 86 A full Title, Erf 2771, Portion 1, with street address as 33 Aurora Drive, Steiltes, Nelspruit, in the City of Mbombela Municipality, Mpumalanga province.
- 87 A full title, Erf 5558, with street address 5558 Kanyamazane A in Kanyamazane, City of Mbombela Municipality, Mpumalanga province.
- 88 A full title, Erf 622, with street address being 21 van Rooyen Street, Stonehenge Extension 1, Mbombela, City of Mbombela Municipality, Mpumalanga province.

Movable Property

- 89 All household goods and personal effects held by 18th Defendant at his residential property.



Vehicles

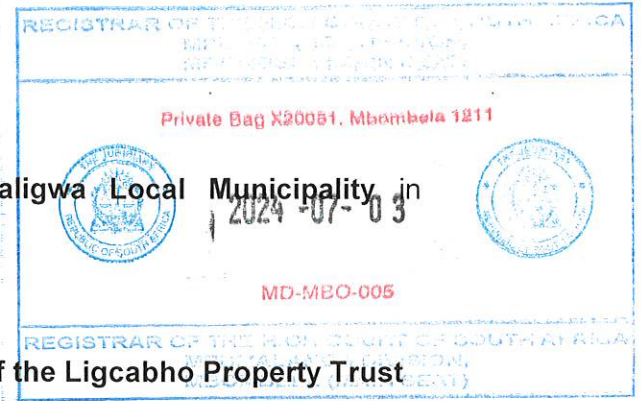
- 90 A **2023** model VW Amarok 30D-184-QD10-DC with registration number **LP68JC GP** and vehicle register number JWT439K.
- 91 A 300C Chrysler with register number JBJ051S.
- 92 Ford Bantam with register number KSW963W.
- 93 A Ford Bantam with register number KWB503W, and
- 94 A Hyundai Bakkie with register number NLS205W.

Trusts

Immovable Property registered in the name of the Ligcabho Family Trust

- 95 A Full title property registered as ***“Remaining Portion”*** of Erf 5141, as well as **Portion 1 of Erf 5141 Ermelo**, in the Mpumalanga province.
- 96 A Full Title Erf 2128 West Acres Extension 32, with street address **3 Tinderwood street, West Acres, Mbombela**, Mpumalanga province.
- 97 A Full Title Erf 48 Mataffin Township, Mbombela, Mpumalanga province, purchased on **20 June 2016**.
- 98 A Full Title Erf 1470 portion 10, with street address being **28 Marloth Street, Mbombela**.

- 99 A Full Title Erf 688, Ermelo, Msukaligwa Local Municipality, in Mpumalanga province.



Immovable Property registered in the name of the Ligcabho Property Trust

- 100 A Full Title Erf 4257, Portion 56, Nelspruit Extension 29, Mbombela, Mpumalanga province.
- 101 A Full Title Erf 1591, with street address as 23 Pinehurst Drive, in the White River Country Estate in White River, City of Mbombela Municipality, Mpumalanga province.

Bank accounts

- 102 All bank accounts held at all banking institutions in the name of the 18th Defendant, all the abovementioned companies/entities and the abovementioned Trusts.

Bail money

- 103 All bail money paid by the 18th Defendant in his related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 19TH DEFENDANT (LIGCABHO LE'AFRICA PROPERTIES (PTY) LTD)

Vehicles

- 104 A **2016** model Volkswagen VN Amarok 2.0D-132-AA8-282 vehicle with registration number **HYP798MP** and vehicle register number GRC238K.

Bank accounts

- 105 All bank accounts held at all banking institutions in the name of the 19th Defendant.

Bail money

- 106 All bail money paid by the 19th Defendant in its related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 20TH DEFENDANT (DORRIES ADELAIDE MBATHA)

Immovable property

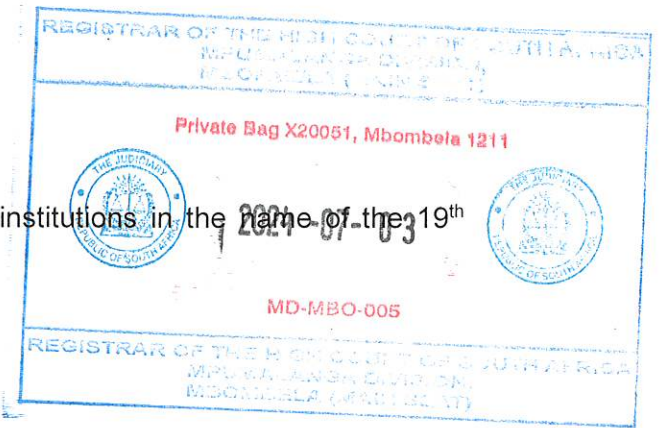
- 107 A Full Title Erf 971 Portion 12, with street address 4 Tawnee Street, West Acres, Mbombela, Mpumalanga province.

Movable Property

- 108 All household goods and personal effects held by 20th Defendant at her residential property.

Vehicles

- 109 A **2017** model Audi 3.0D-183-QA8-7S with registration number LG33NWGP and vehicle register number HBH669K.
- 110 A **2014** model Mercedes-Benz Viano 3.0 CDI Avant Garde Minibus with registration number **HLS655MP** and vehicle register number TKG459W.



Bank accounts

- 111 All bank accounts held at all banking institutions in the name of the 20th Defendant.

Bail money

- 112 All bail money paid by the 20th Defendant in her related criminal case(s) in the Mbombela (Nelspruit) Regional SCCC.

THE 1ST RESPONDENT (ORATILE LATHABO MOLOTSANE)

Movable Property

- 113 All household goods and personal effects held by 1st Respondent at his residential property.

Vehicles

- 114 A **2019** model Volkswagen Polo Vivo 1.6 with registration number **JYC177MP** and vehicle register number HSS510K.

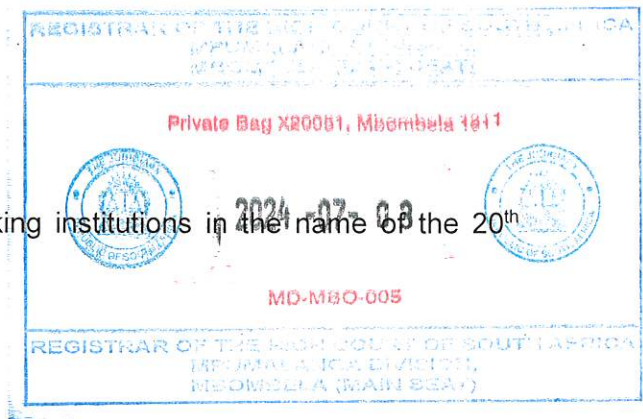
Bank accounts

- 115 All bank accounts held at all banking institutions in the name of the 1st Respondent, and all his linked entities as mentioned above.

THE 2ND RESPONDENT (EZROM MOLOTSANE)

Movable Property

- 116 I submit that all household goods and personal effects held by 2nd Respondent at his residential property.

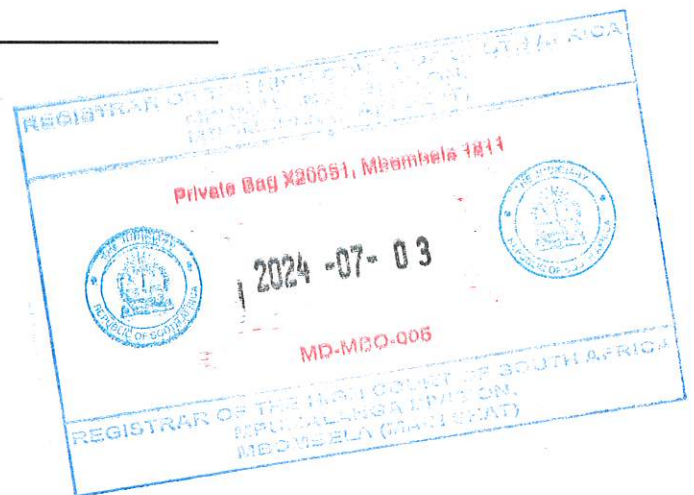


Vehicles

- 117 A **2020** model Mercedes Benz GLC63S AMG with registration number **KTD680NW** and vehicle register number BMZ641X.
- 118 A 2008 model Opel Corsa pick up with registration number **HBS441NW** and vehicle register number CSG509K.

Bank accounts

- 119 All bank accounts held at all banking institutions in the name of the 2nd Respondent, and all his linked entities as mentioned above.



IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION MBOMBELA (MAIN SEAT)



In the *ex parte* application of:

The National Director Of Public Prosecutions

APPLICANT

and

Godisimang Magdaline Molotsane

1ST DEFENDANT

Maganeleni Trading and Projects (Pty) Ltd

2ND DEFENDANT

Anthony Maganeleng Mashigo

3RD DEFENDANT

Gladness Gugu Bulunga

4TH DEFENDANT

Thandolwani Transport and Projects (Pty) Ltd

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Dorries Adelaide Mbatha	20 TH DEFENDANT
Oratile Molotsane	1 ST RESPONDENT
Ezrom Molotsane	2 ND RESPONDENT



AN APPLICATION IN TERMS OF SECTION 26 OF THE PREVENTION OF ORGANISED CRIME ACT (ACT 121 OF 1998)

FINANCIAL CONTROLS ON EXPENDITURE INCURRED BY THE *CURATOR BONIS* APPOINTED IN TERMS OF THE PREVENTION OF ORGANISED CRIME ACT 121 OF 1998

- 1 As soon as possible after property is attached, after having considered the views of the person(s) who formally own the property or control the business in question, and in any event at least two weeks before the date for filing the first interim curator's report, the *curator bonis* must assess, in consultation with the Head: Enforcement, AFU (**Head: Enforcement**), acting as the representative of the National Director of Public Prosecutions, the cost and other implications of holding the property and determine the most appropriate management of each item of property including the cost of administering the item of property and any possible depreciation in its value. In particular, the *curator bonis* must consider, and thereafter report on in his interim report:

1.1 the powers bestowed on him/her in the Prevention of Organised Crime Act 121 of 1998 (**POCA**), the court order and other related legislation.

1.2 whether a business is viable and the best strategy for its management, including an early sale of the business or its stock, or the appointment of a managing agent.

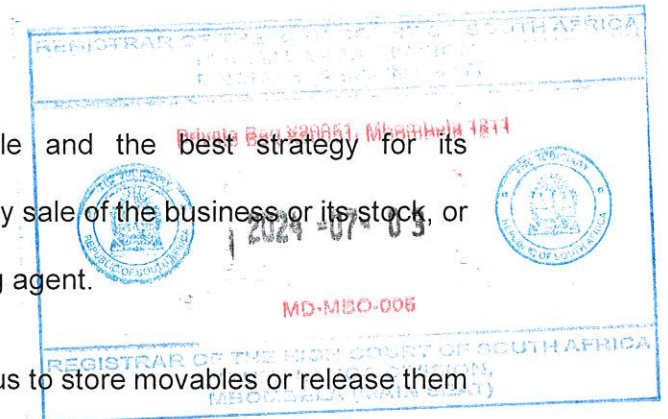
1.3 whether it is more advantageous to store movables or release them to the defendant, subject to suitable arrangements to preserve their value.

1.4 whether a sale of movable property by private treaty or to a person dealing in such property is not a more cost-effective method of realising the property than at public auction; and

1.5 ways to limit costs which are necessary for maintaining the value of assets under restraint, including:

1.5.1 whether a motor vehicle subject to a credit agreement should be returned to the credit provider, realised early with the consent of the defendant or the respondent or otherwise, stored for later realisation or whether the defendant's or respondent's ownership equity in the vehicle should be bought out.

1.5.2 whether immovable property should be sold with the consent of the owner; and



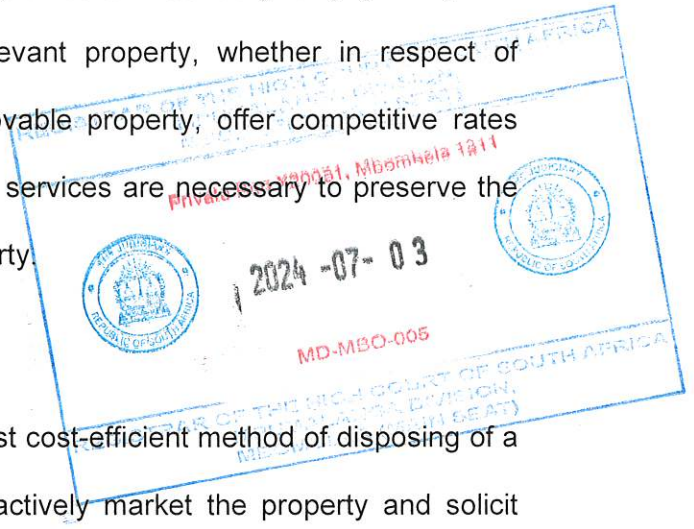
- 1.5.3 whether service providers historically engaged by the owner of the relevant property, whether in respect of movable or immovable property, offer competitive rates and whether their services are necessary to preserve the value in the property.

Method of disposing of property

- 2 The *curator bonis* must use the most cost-efficient method of disposing of a property and, if necessary, must actively market the property and solicit offers but only if cost-effective to do so.
- 3 The *curator bonis* should only resort to a sale at public auction where there is no less expensive or effective method of realising the property.
- 4 Where there is an existing offer for the property, any sale at public auction shall be subject to a reserve price equal to the amount of the existing offer.

Service providers engaged by the *curator bonis* in the performance of his/her mandate

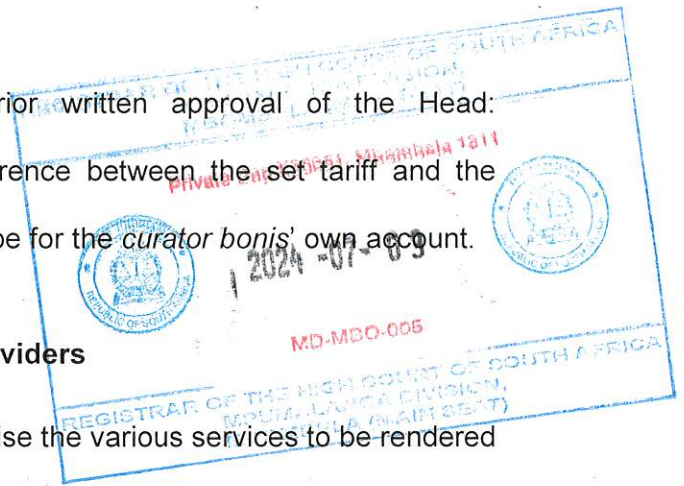
- 5 The *curator bonis* must engage a service provider (such provider includes legal representatives) limited to a rate that does not exceed the approved tariff set out below under the heading "tariffs for service providers to the *curator bonis*".
- 6 If no such tariffs are stated below, or no person can be identified to deliver the service at the set tariff at an acceptable measure of quality, the *curator bonis* must obtain written quotations from 3 service providers in the applicable industry before selecting and motivating for the most appropriate quotation. In this instance, and before engaging the service provider the



curator bonis must obtain the prior written approval of the Head: Enforcement, failing which the difference between the set tariff and the applicable fees shall be assumed to be for the *curator bonis*' own account.

Quotations and accounts by service providers

- 7 If a quotation is required, it must itemise the various services to be rendered and show the rate or other method used to calculate the amount of the quotation. All quotations must state the relevant experience and qualifications of the service provider to perform the service in issue, in a manner that enables the reader to make an informed decision regarding the suitability of the proposed service provider.
- 8 In relation to auctioneers, the quotation must stipulate:
 - 8.1 any fee for removing the property at the risk of the auctioneer, and the rate at which this is calculated.
 - 8.2 who bears the risk of damage or injury.
 - 8.3 any storage fees, and the rate at which this is calculated.
 - 8.4 any fee for inspecting or valuing the property, and the basis on which it is calculated.
 - 8.5 any fee for cleaning the property, and the rate at which this is calculated.
 - 8.6 any advertising costs; and
 - 8.7 the fees of the auctioneer, and the basis on which these are calculated.

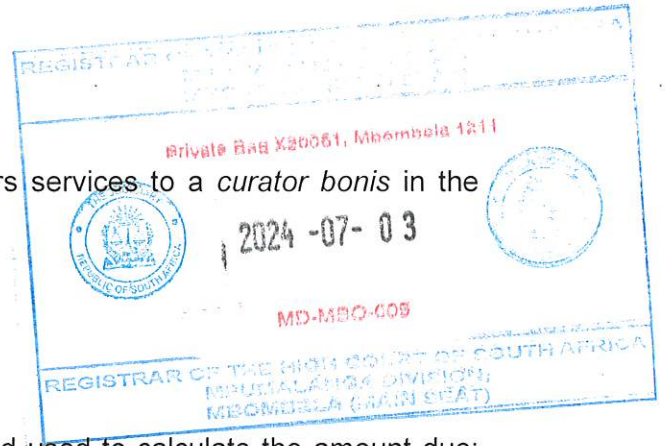


- 9 Any account by a person who renders services to a *curator bonis* in the execution of the order must:

9.1 be itemised.

9.2 show the rate or other method used to calculate the amount due;
and

9.3 be supported by a certificate that the account is a true and proper reflection of the work done and that no hidden profits have been made.



Tariffs for service providers to the *curator bonis*

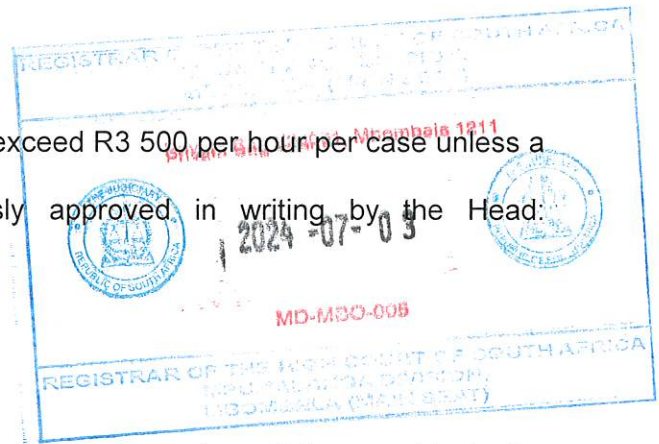
- 10 The following maximum tariffs are approved:

10.1 The fees of an auctioneer shall not exceed 7.5% of the proceeds from the sale of immovable property and 10% of the proceeds from the sale of movable property.

10.2 The fees of a valuer of immovable property shall be whichever is the lesser of the basic *ad valorem* tariff and the time charge prescribed from time to time by the South African Council for the Property Valuers Profession in terms of the Property Valuers Profession Act.

10.3 The fees for the valuation of movable property shall not exceed the fee for appraisers prescribed from time to time by the Master of the High Court in terms of the Administration of Estates Act.

- 10.4 The inclusive costs of storage of motor vehicles shall not exceed R800 per month per vehicle unless a higher rate is expressly approved in writing by the Head: Enforcement.
- 10.5 Attorney fees shall not exceed R2 000 per hour per case unless a higher rate is expressly approved in writing by the Head: Enforcement.
- 10.6 Advocate fees shall not exceed R3 500 per hour per case unless a higher rate is expressly approved in writing by the Head: Enforcement.



Travel and accommodation

- 11 Reasonable air travel expenses at economy rates will be payable to the *curator bonis* in addition to any fee if the travel is necessary to directly execute the court order.
- 12 Motor vehicle travel expenses will be reimbursed in terms of the Tariff for the Use of Motor Transport published periodically by the National Treasury on www.tau.treasury.gov.za if the travel:
- 12.1 involves a return trip of more than 60km; and
- 12.2 is necessary to directly execute the court order.
- 13 *Inter alia*, travel for the following purposes will not be deemed travel necessary for the direct execution of the court order
- 13.1 the administration or accounting required for the curatorship, including visits to the Master of the High Court, the National Director

of Public Prosecutions and his/her representatives, the curator's financiers or auditors and any legal representatives of any party.

13.2 the management of any business under curatorship where such travel is payable by the business concerned; and

13.3 any litigation arising in the curatorship.

14 If accommodation is necessary for the travel referred to above, the expenses associated with such accommodation will be reimbursed at the rate for reasonable 4 star or similar accommodation in the area.

Other expenses

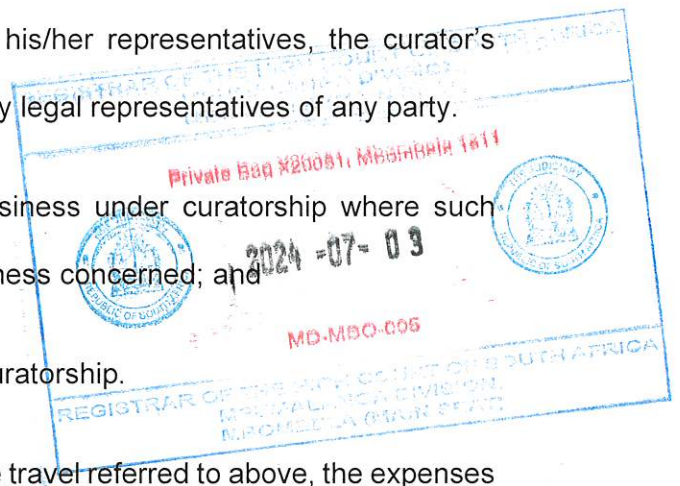
15 In his/her final *curator bonis*' report or when requesting an interim payment on expenses, or in an exceptional case, fees, from the National Prosecuting Authority, the *curator bonis* shall certify that the expenses that are claimed were incurred solely in, and necessary for, the proper execution of his/her mandate in terms of the order of court made in terms of POCA.

Living expenses

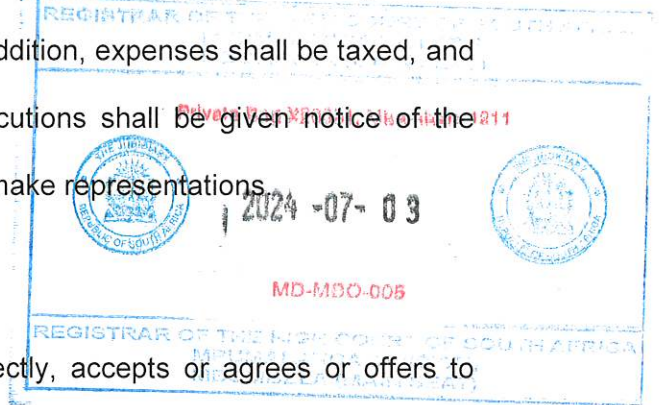
16 Unless otherwise specified in the restraint order, reasonable living expenses shall only be paid to any person subject to the restraint order and his or her family or household if ordered to do so by a court.

Legal expenses

17 Payment of a defendant or respondent's reasonable legal expenses may only be made from assets under restraint when unrestrained assets are not available pursuant to a court order.



- 18 Legal expenses incurred by the *curator bonis* within the course and scope of his/her mandate must comply with the provisions above relating to the appointment of service providers. In addition, expenses shall be taxed, and the National Director of Public Prosecutions shall be given notice of the taxation and be entitled to attend and make representations.

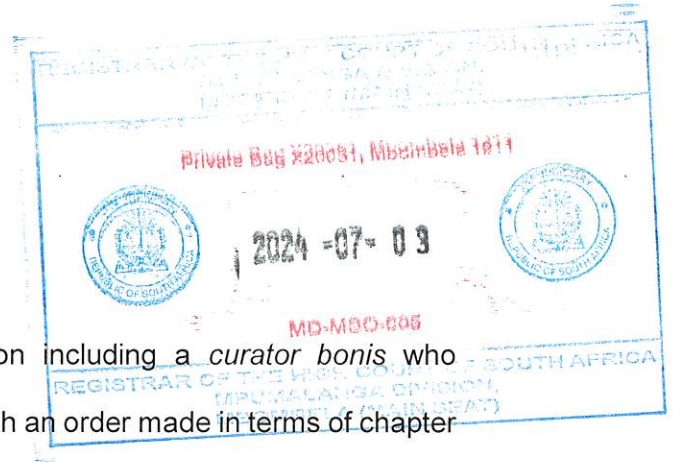


Disclosure

- 19 A *curator bonis* who, directly or indirectly, accepts or agrees or offers to accept from any other person any benefit or gratification in relation to the performance of any part of his/her mandate, whether for his/her benefit or for the benefit of another person, shall in his/her first report to the Master thereafter declare:
- 19.1 the name and address of the person who provided the benefit/gratification.
 - 19.2 the name and address of the person for whose benefit the benefit/gratification was provided.
 - 19.3 the nature and value of the benefit/gratification; and
 - 19.4 the circumstances in which the benefit/gratification was offered and accepted.
- 20 The attention of the *curator bonis* is further drawn to the provisions of sections 12, 13 and 14 of the **Prevention and Combating of Corrupt Activities Act 12 of 2004 (PRECCA)**.

Liability

- 21 Section 75(2) provides that any person including a *curator bonis* who intentionally refuses or fails to comply with an order made in terms of chapter 5 and 6 of POCA, shall be guilty of an offence.



Removal and substitution

- 22 The provisions of the **Administration of Estates Act 66 of 1965 (AEA)** applies including section 54(a), read with section 85, where a *curator bonis* may be removed/substituted by a court in the following circumstances:

- 22.1 Where he/she has been a party to an agreement whereby he/she has undertaken to grant to a debtor or has partaken in an endeavour to grant to a debtor or creditor of the estate any benefit to which s/he is not entitled.
- 22.2 Where he/she has accepted or expressed a willingness to accept any benefit in consideration of any person being engaged to perform any work on behalf of the estate; and
- 22.3 If for any other reason the court is satisfied that it is undesirable that he or she should continue to act as curator of the estate concerned, *inter alia*, if he/she fails to suitably perform any duty imposed upon him/her by POCA/AEA/court order or fails to comply with a lawful request from the Master.
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IN THE HIGH COURT OF SOUTH AFRICA
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AN APPLICATION IN TERMS OF SECTION 26 OF THE PREVENTION OF ORGANISED CRIME ACT (ACT 121 OF 1998)

NOTICE TO DEFENDANTS AND RESPONDENTS

Disobedience to this Order is a criminal offence in terms of **Section 75(2)** of the Prevention of Organised Crime Act 121 of 1998, which is punishable by a fine or imprisonment for a period not exceeding **15 years**.

This order prohibits you from dealing with any of the realisable assets as stated in **Paragraph 1** of the Order and obliges you to surrender such affected assets to the **Curator Bonis** that was appointed by the honourable Court and/or duly appointed representatives of the Applicant (NDPP) and/or members of the South African Police Services at once, pending a further order of this Court.

The order also requires you to make an affidavit disclosing all your assets to the **Curator Bonis**, duly appointed representatives of the Applicant (NDPP) and/or

members of the South African Police Services and gifts that you made to third persons or institutions.

The order contains certain exceptions which you should read carefully. You are advised to consult with an attorney as soon as possible.

You have a right to ask this honourable Court to vary or discharge this order.

