ANNEXURE 'POS-1'

I **PRUDENCE MABENA** do hereby certify that I have satisfied myself of the identity of the deponent,

PAUL ROBERT O'SULLIVAN

by reference to his passport number

M00135182

reflecting his citizenship as

SOUTH AFRICAN

before administering the prescribed oath the following questions were put to the deponent and noted his reply in his presence:

(a) Do you know and understand the contents of the affidavit?

Reply - **YES**

(b) Have you any objection to taking the prescribed oath?

Reply – **NO**

(c) Do you regard the prescribed oath as binding on your conscience?

Reply – **YES**

The deponent has acknowledged that he knows and understands the contents of the affidavit. The oath was duly sworn and the deponent's signature was appended thereon in my presence at **LONDON** on this **6 August 2020.**

Third Secretary, High Commission for the Republic of South Africa, London, England.
(Authority: Government Notice No. R.1258 of 21 July 1972, as amended by Government Notice No. R.1648 of 19th August 1977).

SOUTH AFRICAN
06 AUG 2020
LONDON
HIGH COMMISSION

IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

AFFIDAVIT OF PAUL O'SULLIVAN

I, the undersigned,

PAUL O'SULLIVAN

do hereby make oath and state that:

1 I am an adult male Certified Fraud Examiner. I am the founder of Forensics for Justice NPC, a non-profit organisation that has been involved in investigating corruption and criminal activity within the criminal justice system and State Owned Companies ("***SOCs***"). Many of these entities have become corrupted by criminals and criminal networks who in many instances have managed to avoid detection or prosecution because of assistance provided to them by politically-connected individuals who have utilised the machinery of the state to assist them in their criminal enterprise. I can provide the Vision and Mission of Forensics for Justice

2 I depose to this affidavit on my own behalf and on behalf of Forensics for Justice. I do so to assist the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State ("***the Commission***").

3 Save as may otherwise be stated herein or as may appear from the context, the facts herein deposed fall within my personal knowledge, and are to the best of my knowledge and belief both true and correct. Where I make averments not falling within my personal knowledge, I place reliance on documents that are in my possession.

INTRODUCTION

4 In this affidavit I deal with a specific aspect of the capture of the criminal justice and law enforcement agencies. I will, if necessary, file a further affidavit dealing with additional aspects of the capture of the criminal justice system and the law enforcement agencies.

THE NATURE OF MY WORK

5 I have more than 40 years of experience in the investigation of serious crime. This includes investigating offences such as terrorism, human trafficking, drug trafficking, arms trafficking and money laundering. Most of these investigations concerned activities of a transnational and organized nature

6 My experience includes time spent in law enforcement agencies in the United Kingdom, the United States, Cyprus and South Africa. I was for many years a police reservist in South Africa and in 1994 I received an award for making more arrests than any other police officer in Johannesburg during that year. I have received many commendations for the proper and thorough standard of investigation from Magistrates and Judges presiding over cases that I had investigated.

7 In 1978, I received a commendation from Scotland Yard in London, for arresting a dangerous criminal. I was injured during the arrest.

8 In 2002 and 2003, I received commendations from the Canadian and Australian governments for my work in combatting human trafficking.

9 In 2006, I received Narconon's William Benetez Award, in Milan, Italy, for my work in combatting drug trafficking.

10 In 2011, I received the Paul Harris Fellowship from the Foundation of Rotary International for my work in combatting human trafficking globally.

11 My work in law enforcement and policing placed me in good stead to do the kind of work that I am currently involved in, i.e. a Forensic and loss Control Consultant. My occupation involves the investigation and reporting on fraud and corruption at both a corporate and political level. It is not only my police work and previous involvement in law enforcement that enables me to pursue my career successfully, but also the fact that I am a Certified Fraud Examiner. In 2014 I was awarded the Certified Fraud Examiner of the Year award, for Africa, from more than 5,000 Certified Fraud Examiners on the continent.

12 I have been accused of being a meddlesome and officious person. This is clearly not true. As will be seen, I am merely being a good citizen.

BACKGROUND

13 From about 2001 I, in my personal capacity, became involved in the investigation and the gathering of information concerning corrupt officials in South Africa. I did so to expose, and lay criminal charges to bring those corrupt officials to justice, because they were enabling drug and human trafficking through what was then Johannesburg International Airport. When I commenced these investigations I was the executive responsible for safety and security at South Africa's ten major airports, operated by Airports Company South Africa. The then National Police Commissioner, General Jackie Selebi, orchestrated my

discharged from that position, after I had cancelled a corruptly awarded contract between Airports Company South Africa and one of Selebi's friends.

14 After some investigation I soon realised that the upper echelons of South Africa's law enforcement agencies had been infiltrated and were being controlled by criminals. It was in this context and primarily for this reason that I founded Forensics for Justice.

15 In mid-2011, I discovered that certain senior police officials, unlawfully used Section 205 of the Criminal Procedures Act, 1977 to obtain my cellular records from Vodacom. They then handed my records to Radovan Krejcir, a known organised crime boss who I had been investigating.

16 In consequence to a subsequent case in 2014, where Vodacom unlawfully provided my phone records to Radovan Krejcir, I litigated against Vodacom in the High Court of South Africa Gauteng Local Division, Johannesburg Case No. 17/618181. I can provide the summons concerning this case. Arising out of this information and that of an informer it became known to me that Vodacom released my cellular records under a summons issued under Section 205 of the Criminal Procedure Act. To motivate the application, it was falsely claimed that I was suspected of involvement in the following criminal cases:

16.1.1.	Primrose	Case 709/03/2011	- Kidnapping & Assault
16.1.2.	Tokoza	Case 268/04/2011	- Armed Robbery
16.1.3.	Tokoza	Case 31/06/2011	- Murder

17 None of these cases involved me in anyway whatsoever, and were fraudulently quoted in the Section 205 application by corrupted police officials to motivate and to unlawfully obtain a subpoena for my phone records.

18 My investigation into the disclosure of my phone records to Radovan Krejcir subsequently uncovered that Lieutenant General Vineshkumar Moonoo 'Moonoo' and other senior police officers' were involved with Radovan Krejcir. I have an affidavit of Candice Coetzee establishing this.

19 I also discovered evidence that Moonoo instructed certain corrupt police officials to stop me in my investigations. Moonoo even conspired with Radovan Krejcir to have me murdered. In support of this I again refer to the sworn statement of Candice Coetzee.

20 On 6 February 2014, I opened a docket, at Linden Police station LINDEN CAS 107/2/2014. The docket implicated both Moonoo and then acting Commissioner Police Phiyega, in signing off on a fraudulent contract with Tracker Network (Pty) Limited, a vehicle tracking company, that cost the tax payer hundreds of millions. Once again, no steps were taken to properly investigate the docket and no-one was brought to book. To this very day, Tracker continue to use police officials for private purposes in a business they have grown at tax-payer expense to a value of more than R 1.2 billion. I can provide my sworn statement that I used when I opened this criminal case.

21 On 9 January 2014, whilst I was preparing the above docket against Tracker - Radovan Krejcir, conspired to murder me, despite being in prison awaiting trial. The murder was thwarted and 8 arrests were made. The arrestees included police officials. I subsequently discovered that Moonoo had conspired with Krejcir to have me murdered, to stop me from investigating their criminal activities. The Investigating Officer of this case is Col. Gininda and the prosecutor is State Adv. Adv. Dion Van Wyk. The charges are:

21.1 Conspiracy to commit murder.

21.2 Possession of Fully automatic rifles and ammunitions.

21.3 Possession of stolen motor vehicles.

21.4 Murder under Heidelberg CAS 269/07/2013 (the murder of Phumlani Mncube). The death of Mncube has nothing to do with me or my investigations but was included on the same charge sheet because it involved the same accused.

21.5 Possession of unlicensed firearm arms and ammunitions.

22 The accused:

22.1 Siboniso Miya

22.2 Nkanyiso Mafunda

22.3 Simphiwe Memela

22.4 Radovan Krejcir

22.5 Sergeant Nandi Nkosi (a Crime Intelligence official)

22.6 Owen Serero

22.7 Zodumo Biyela.

23 All the accused are in custody except Zodumo Biyela who is out on bail.

24 The matter is due to appear in the Johannesburg High Court on 7 August 2020 for pre-trial arrangements.

25 On 1 October 2014, and again on 3 October 2014, I wrote and advised then Commissioner of Police, General Phiyega, that Moonoo was involved in various corrupt relationships and that, because I had exposed this, Moonoo was intent to harm or to have me arrested on any charge possible. I can provide copies of these emails.

26 On 25 October 2014, Phiyega wrote and advised me that she had "*forwarded the communication directly to Moonoo*", thereby, in my view, defeating the ends

of justice. There is no apparent lawful reason as to why she took this action. I can provide a copy of this letter from Phiyega.

27 I opened a case against Phiyega with the Randburg Police Station (RANDBURG CAS 301/05/2015). I can provide a copy of my Sworn Statement in this respect.

28 On 7 March 2015 I caused a criminal docket to be opened against South African Airways Chairman, Ms Duduzile Cynthia Myeni and several others for offences relating to inter alia attempting to unlawfully intercept cellular data, forgery and uttering and fraud. (BRAMLEY CAS 94/03/2015) I can provide a copy of my Sworn statement in respect of this case.

29 On 14 March 2015 Myeni, in retaliation, opened a criminal docket against me under KEMPTON PARK CAS 679/03/2015. This docket was purportedly "*investigated*" by Colonel AK Hoosen ("***Hoosen***") and Warrant Officer Jacobus Jozua Vlok ("***Vlok***") on instruction from Moonoo. This was confirmed by Hoosen during his evidence in the Section 26B Passport trial. I can provide the transcripts of this evidence.

30 On 8 April 2015 Vlok uplifted the docket in respect of my criminal complaint against Myeni (BRAMLEY CAS 94/03/2015). I received an SMS notification from the SAPS confirming this.

31 Vlok therefore had the docket I opened against Myeni and the docket Myeni opened against me. This was, at best, a clear conflict of interest. In truth, however, he was not genuinely investigating the criminal case I had laid against Myeni; he was merely uplifting the case docket I had laid against Myeni to consider what evidence I had against her to support a fraudulent application for a search and seizure warrant against me. The case against Myeni was never investigated. I can provide my sworn statement setting this out.

32 On 15 April 2015 Hoosen and Vlok arranged an unlawful application for a search and seizure warrant for my premises. I can provide the fraudulent application for this search and seizure.

33 Attached to their search and seizure applications were copies of my own sworn statements in BRAMLEY CAS 94/03/2015, which Vlok had uplifted on 8 April 2015.

34 The search was not to genuinely look for evidence but rather, I believe, to seize my computers and establish what evidence and information they contained that might implicate senior police officials, including, but not limited to Moonoo.

35 On 16 April 2015, Vlok and about 30 other police officials, raided my offices at 7 Janine Road, Sandown Estate. They were accompanied by members of the media. It was clear that the intention was to vilify and defame me. They seized my computers and cell phones.

36 The same day, following an urgent application by me to the High Court, an order was granted, the effect of which was that a mirror image of my computers and 'phones could only be carried out in the presence of my attorney and the images had to be handed to the registrar of the court pending the outcome of an application to set aside the warrant. I can provide a copy of this interim High Court Order.

37 On 17 April 2015, in breach of the High Court order, Vlok arranged for the copying and mirror-imaging of my computers and cell phones at Langlaagte Police Station, without arranging for my attorney, Mr Darrel Furman, to be present. It subsequently became apparent that Vlok unlawfully made a copy for himself and his accomplices. I can provide a copy of the affidavit of Candice Olim in support of this.

38 After April 2015 Vlok "*harvested*" the contents of my computer, and started systematically contacting persons who were the subject of criminal investigations that I had been conducting. The details of these matters and persons were on my computer. Vlok then encouraged those persons to make affidavits and bring false charges against me and some of my staff. This became apparent during the various court cases in which I was subsequently prosecuted. The relevant police case dockets demonstrate the systematic methodology of bringing these charges against me (and some of my staff members). I can provide a schedule of these cases.

39 On 16 May 2015 I opened a case against *inter alia* Moonoo and Vlok under RANDBURG CAS 301/05/2015 for *inter alia* perjury, defeating the ends of justice, fraud and corruption. (This was the second case I opened against Moonoo). The first was LINDEN CAS 107/2/2014.

40 On 20 May 2015 Warrant Officer Vlok attended at the Norwood Police Station and collected the following three dockets under:

40.1 NORWOOD CAS 183/10/2014, a case I opened against Radovan Krejcir's son, Denis Krejcir, for threatening to kill me on his Twitter account. This to the best of my knowledge has never been investigated. I can provide a copy of my Sworn statement in respect of this case docket.

40.2 NORWOOD CAS 125/06/2014 and NORWOOD CAS 126/06/2014, which are both false cases opened against me by Radovan Krejcir's associates. As far as I know there has never been further developments in either of these cases.

41 On 13 October 2015, the High Court (in the matter between Paul O'Sullivan and Another v. The Minister of Police and Another, Case no 15356/2015) handed

down an order setting aside the search warrant and ordered all items seized to be returned, and any copies of my computer to be destroyed. I can provide a copy of the final Court Order.

42 To the best of my knowledge RANDBURG CAS 301/05/2015 has never been investigated by the SAPS. My inquiries about this case docket brings me to the conclusion that the police cannot account for it.

43 Vlok subsequently stated under oath in the Pretoria High Court in the matter between O'Sullivan v the National Director of Public Prosecutions, case no. 75378/2016: "*I deny that I intercepted any docket where Myeni was a suspect.*" I have the transcription of this statement by Vlok. His statement about this is false.

44 I understand that the BRAMLEY CAS 94/03/2015 docket in which I am the complainant is also missing. The last notification I received from the SAPS was that Vlok took possession of the case docket. Furthermore, I have never been approached by the police for additional information; nor have I ever had any feedback on the progress of investigations.

45 I had in the interim discovered that Phahlane, the newly appointed acting Commissioner of Police, was in cahoots with Moonoo and was protecting him. I had been sending e-mails pertaining to the criminal conduct of Moonoo to the former Commissioner of the SAPS, Phiyega, for a period of 18 months. On 6 February 2015 I received an e-mail from Phiyega informing me that Brigadier van Zyl would be investigating my complaints against Moonoo. Phiyega was subsequently suspended and replaced by Acting National Commissioner, Phahlane. I then sent the same emails to General Phahlane, not knowing that he in fact lent assistance to Moonoo in his criminal activities. I can provide copies of court documents filed in the High Court, Gauteng, Pretoria Division

Case Number 8258/2017 in support of my belief that Phahlane and Moonoo were criminally connected. I can also provide a copy of the sworn statement of Jacob Nare as support.

46 In February 2016, I interviewed whistle-blowers from the South African Police Service, in relation to the alleged illegal acquisition of forensic supplies by the South African Police Service in about 2011.

47 This alleged tender fraud was in excess of R50 million and implicated *inter alia* Kgomotso Phahlane ("***Phahlane***") who at the time of the alleged fraud (in 2011) was the Divisional Commissioner of Forensic Services of the South African Police Service. He was subsequently appointed as the Acting Commissioner of Police in October 2015.

48 The unlawful tender resulted in the procurement of inferior forensic equipment and chemicals rendering forensic examinations of crime scenes unreliable and inadequate. For example, expensive squirrel hair brushes normally used by forensic fingerprint experts in searching for culprit prints at scenes of crime, were replaced by cheap nylon cosmetic brushes. In consequence, the forensic examination of many crime scenes were seriously compromised. In this regard I have a report I obtained from a renowned forensic expert, Dr David Klatzow.

49 Due to my suspicions concerning Phahlane I, together with Sarah Jane Trent in the capacity of our NGO, "Forensics for Justice" decided to conduct a lifestyle audit on Phahlane. We discovered from records and data that Phahlane appeared to be living a lifestyle far in excess of what a senior police officer serving in the South African Police Service could afford. In particular, he had built a 575 m^2 double story mansion, comprising six bedrooms and five bathrooms in Sable Hills, an up-market gated community which is also a game

farm estate. I established that the construction cost of the house was in the region of between five and six million Rand. We established that Phahlane had self-financed this property to the value of about R4.7 million. Coupled with the evidence we had gathered in respect of the Forensic tender fraud I was convinced that we had made out a proper and sufficient case of corruption against Phahlane for investigation.

50 On 25 February 2016 I formally submitted a complaint of alleged corruption and tender fraud to the Independent Police Investigative Directorate ("***IPID***"). I have copies of the complaint and the affidavit of Colonel Sandragasan Moonsamy which founded the complaint.

51 The evidence submitted established a *prima facie* case of tender fraud against Phahlane.

52 This case was registered for investigation under IPID Ref CCN 2016030085.

53 IPID's Acting Executive Director, Mr Israel Kgamanyane, who had taken over from Mr Robert McBride who had been placed on suspension, made no progress in this investigation. I subsequently discovered, after Mr Robert McBride returned to his duties, that the docket had been shelved.

54 On 15 March 2016, frustrated by the lack of attention given to the serious allegations of corruption I had uncovered, I sent a blunt e mail to *inter alia* senior members of the police and government about systemic corruption in South Africa and my intention to expose the corruption at a conference to be held in the United Kingdom. This e-mail was intended to provoke some sort of a response from them. It did.

55 In subsequent proceedings in O'Sullivan v the National Director of Public Prosecutions, Col. Hoosen stated in a supporting affidavit:

"I became aware during the latter part of March 2016, of an email dated 15 March 2016, sent by the Applicant [Paul O'Sullivan] to various members of the South African Police Services and the Deputy President, among others, wherein he alleged that he is leaving the country and going into exile and would fight corruption from outside the country."

56 I have a copy of Hoosen's affidavit in support of the above.

57 On 1 April 2016 (six weeks after Major-General Mokotedi's appointment to the Hawks), I boarded a flight to London with two of my minor children, aged eight and nine years, respectively. My children were returning to school in the United Kingdom and I was accompanying them. I was also due to attend the media conference to which I had alluded in my earlier email.

58 I was, prior to boarding the flight to London, informed that I had been flagged as a wanted person by the police under the case opened against me by Dudu Myeni (KEMPTON PARK CAS 697/03/2015).

59 As the doors of the plane were closing, a large contingent of members of the Hawks consisting of *inter alia* Hoosen and Captain Mkupa came onto the air-bridge, and ordered SAA staff to remove me and my minor children from the plane. I was told I was being arrested for allegedly contravening section 26B of the South African Citizenship Act which, the next day I was informed, provides that a South African citizen may not use a foreign passport when he or she enters or departs the Republic of South Africa. The penalty is a fine or imprisonment for a period not exceeding 12 months. It is certainly not an offence that could ever fall within the mandate of the Hawks. I note that at the time of the arrest I requested to see the warrant of arrest and I was told I would have to wait

until we 'got back to the station'. I subsequently found out that, not only had no arrest warrant been obtained, a criminal docket had not even been opened.

60 Two case dockets one with reference number: PRETORIA CENTRAL 04/04/2016 and one with OR TAMBO CAS 06/04/2016 were opened post factum. I can provide a copy of the Charge Sheet. The former case was opened in my presence at Pretoria Central Police station, a little after midnight.

61 Notwithstanding the minor nature of the offence I was arrested by a contingent of more than 15 police officers, all of whom were employed at the time in the Hawks unit of the South African Police Service, which are mandated to deal with Priority Crimes.

62 I was removed from an aeroplane, about to depart for London, and together with my two minor children forced to disembark in full view of all the passengers in the aeroplane.

63 I was then handcuffed and arrested in the presence of my two minor children, which left my children severely traumatized and me thoroughly humiliated.

64 My arrest and subsequent detention was malicious and unlawful and executed without an authorised warrant of arrest.

65 Furthermore, the day after the arrest Major General Prince Mokotedi prodded me with his finger saying, *inter alia*, "*You don't know how much you've upset Dudu Myeni.*" I therefore believe that my arrest was partly because of the cases that I had opened against Dudu Myeni, and had little to do with the passport allegation against me.

66 After my wife collected my children from the airport, I was transported in a blue light convoy travelling at excessive speeds, ranging from between 200 km/h to

220 km/h and detained at the Pretoria Central Police Station in sub-human and degrading conditions

67 The following day, on 2 April 2016, late at night, I was without warning driven to and detained at the Villeria Police Station, again at very high speed.

68 On 3 April 2016 I was interrogated by Mokotedi and other members of his team; attended by my attorney, Darryl Furman and my employee, Trent. The interrogation was on matter extraneous to and completely unrelated to an alleged breach of Section 26B of the South African Citizenship Act. During this interrogation Mokotedi initially undertook to release me on police bail. He then changed his mind and stated he could not release me on bail, as that would have to take place at court on the Monday when he then undertook not to oppose bail. Trent recorded this meeting and I have both the audio file and the transcripts of the audio file of this conversation.

69 On 4 April 2016, at Kempton Park Court, Darryl Furman and Trent met with the Mokotedi Team and Advocate Maema who now informed Furman and Trent that they would oppose my bail. Furman then informed them that they had undertaken not to oppose bail and that we had a recording of same. Furman threatened to release the recording to the media if I was not released. I was ultimately released on bail, with extremely onerous bail conditions, on 4 April 2016 by order of court at the Kempton Park Magistrate's Court.

70 My arrest and subsequent detention was, with respect, not intended to secure my attendance at a criminal trial, but rather intended to harass and intimidate me and to prevent and punish me from investigating corruption within the police.

71 These police officials unlawfully confiscated my passports to prevent me from travelling overseas thereby depriving me of my freedom of movement, disrupted

my business activities and prevented me from seeing and visiting family members abroad.

72 My passports were retained for a year and only returned to me by order of the magistrate at Kempton Park in March 2017. Furthermore, if I needed to travel overseas, I had to bring an expensive application to court each time, which was dishonestly opposed each time. I should mention that, when the Magistrate ordered that my passports be returned to me, the police official in possession of them who was seated next to Mokotedi in the court, got up from his seat and left the courtroom with my passports and the court had to order that he return immediately.,

73 On 12 April 2016, twelve days after I had been arrested and removed from an aeroplane, Mr Shaun Abrahams retrospectively addressed an internal Memorandum to Advocate Nomcobo Jiba, who was at the time head of the National Prosecuting Authorities' Priority Crime Litigation Unit ("***PCLU***") and Adv. J. P. Pretorius, SC who was acting Special Director of Public Prosecutions for the PCLU.

74 I am in possession of a copy of this memorandum. The PCLU is mandated to deal with the most serious national and international crimes such as terrorism, sabotage, International Crimes under the Rome Statute, high treason and sedition, as well as other very serious matters. The crimes that I was falsely accused of do not come even close to falling into these category of crimes.

75 I was maliciously prosecuted under case number D803/2016 in the Kempton Park Magistrate Court. The trial lasted for 12 court days spread over a period of 15 months with several lengthy postponements at the insistence of the State.

76 During the trial, Mlotshwa launched a fraudulent application to have the Magistrate recuse himself, as a reprisal for the Magistrate granting me permission to get my passports to travel overseas. The application, which wasted two full court days and added three months to the length of the trial, failed and cost me in excess of R150,000 in wasted legal fees.

77 On 2 June 2017 a discharge was granted in terms of section 174 of the Criminal Procedure Act, 1977. I have a copy of the Magistrate's scathing judgement.

78 The prosecutor, Mlotshwa, immediately stated his intention to the court to apply for leave to appeal but failed to give effect to this.

79 During April 2016, a week after my unlawful arrest and detention on alleged passport violations General Moonoo opened PRETORIA CENTRAL CAS 380/04/2016 falsely alleging "Espionage" or Act 70 charges. The investigating officer was General Prince Mokotedi. I was required to provide a warning statement. I am in possession of the letter addressed to me from Mokotedi.

80 I was concerned that I would again be maliciously arrested on this or other cases that the police were investigating against me. In September 2016, to avoid the risk of a further malicious arrest, I turned to the Courts for protection.

81 I brought an application in which I requested the Honourable Court, inter alia, to temporarily interdict the Respondents, Lt General Ntlemeza, Lt General Phahlane, major-General Prince Mokotedi, Advocate Sello Maema, Advocate Jabulani Jacob Mlotshwa and Warrant Officer Joshua Jacobus Vlok from directly or indirectly supervising, conducting or participating in any criminal investigation or prosecution of myself pending the final determination of part B of the application. The founding affidavit in that matter is in excess of 400 pages (but is available). I can provide a copy of the Notice of Motion and the settlement

agreement I reached with the Minister of Police, Lt General Phahlane, Lt-General Berning Ntlemeza and Major-General Prince Mokotedi.

82 The settlement agreement was made an order of court.

83 The settlement agreement provides:

> "*HAVING read the papers filed of record, and by agreement between the parties (but without any admission of liability, and in particular without admission that the applicant is entitled to any relief in relation to Part A), an order in the following terms issues in relation to Part A of the application:*
>
> *In any matter, including the charges being investigated under Pretoria Central CAS 380/4/2016, where the First Respondent has taken a decision to prosecute the Applicant and where a warrant of arrest has been obtained for the arrest of the Applicant, the 3rd, 4th, 5th and 6th Respondents undertake to afford the Applicant 48 hours' notice to present himself at a designated Police Station.*
>
> *In any other matter where the First Respondent has made a decision to prosecute the Applicant, the 3rd, 4th, 5th and 6th Respondents undertake that the applicant will be bought to court by way of summons.*
>
> *In any other matter where the determination is made that the arrest of the Applicant is necessary, the 3rd, 4th, 5th and 6th Respondents undertake to afford the Applicant 48 hours' notice to present himself at a designated Police Station.*
>
> *Part B is postponed sine die.*"

84 McBride subsequently returned from suspension in October 2016 I took the tender fraud, suspected corruption and lifestyle of Phahlane up with him.

85 On 9 November 2016, IPID officers Messrs Mandla Mahlangu and Temane Binang, who had been appointed as the investigators in this Phahlane matter approached me and Trent and requested our assistance in the initial stages of this investigation by accompanying them to Sable Hill Estate to conduct on-site investigations. Almost a year had been lost due to the apparent capture of IPID for that period.

86 We accompanied the two IPID investigators to Sable Hills, to show them where Phahlane had built his house. We entered the Gated Estate and IPID conducted investigations and interviews there. We met *inter alia* with the Estate Manager, Chris Jooste and later the building contractor, Mr Frederick Terblanche. Our introductions to everyone we met was clear and unambiguous – it was clear that Trent and myself were not IPID members. I am in possession of audio recordings and transcripts of these recordings to demonstrate this.

87 Through these on-site investigations we were able to identify Phahlane's house, obtain photos of the plans of his house and established that the building contractors were paid cash for their work by Phahlane, the money apparently coming from the boot of his car.

88 We had also confirmed, through the lifestyle audits, the presence of a range of luxury cars owned by Phahlane including Land Rovers and Mercedes, some of which appeared to have been bought for cash.

89 In my view this preliminary investigation established the veracity of my complaint of corruption against Phahlane. He clearly was living a lifestyle well beyond his and his wife's police income.

90 Apart from following up on some aspects of this initial investigation, including tracing of witnesses, I was not again formally involved in this investigation, and

to the best of my knowledge neither was Trent, although I did instruct Trent to provide ad-hoc assistance when and where needed.

91 It soon became evident from public statements that Phahlane was incensed at our visit and investigations at Sable Hills. Seemingly his major concern was that we had purportedly compromised his security and safety. This of course was not true, the real reason for his disquiet is that our investigation had made him vulnerable to prosecution for corruption. Indeed he is currently awaiting trial.

92 Soon thereafter General Ntebo Jan Mabula from North West Province, acting as complainant on behalf of Phahlane, registered a complaint of Fraud, Defeating the ends of Justice and Impersonating IPID investigators vide KAMEELDRIFT CAS 12/01/2017 against myself and Sarah-Jane Trent. He appointed an Investigating Team consisting of himself, Brigadier Clifford Kgorane, Brigadier Pharasa Ncube, Colonel Ismail Dawood, Colonel Mike Sales and others.

93 I believe from media reports that I have seen that Mabula and the team of police officers serving under him had previously also arrested State Advocate Gerrie Nel when he was prosecuting Jackie Selebi; and arrested Major General Johan Booysen and others in the so-called "Cato Manor Death Squad" case. Those arrests and prosecutions have failed and seem to be founded on malicious intent, I therefore believe Mabula and his team are deployed by SAPS management in cases of special interest, especially because they are not stationed in Gauteng but North West Province and are prepared to do things that honest police officials might refuse to do.

94 In my view the purpose of opening a case docket on behalf of Phahlane and establishing this high powered investigation team was merely to allow a counter-investigation access to the witnesses we had interviewed and to take counter,

possibly conflicting affidavits, from these witnesses so as to minimise the weight of their evidence, or even destroy the witness credibility. In fact this is exactly what they did. Additionally, the purpose was to harass and intimidate the IPID investigators and myself and Sarah-Jane Trent. The witnesses we had interviewed, inter alia, Estate Manager Chris Jooste and the building contractor, Mr Frederick Terblanche were encouraged by the Mabula Team to depose to affidavits claiming that we had brow-beaten and/or tricked them into making statements to the IPID investigators. This is of course untrue, as is proven by the audio tape and transcripts of those meetings, which I can provide if required.

95 It was clear to me that Phahlane was using his authority as acting Commissioner of Police to not only protect himself from investigation and prosecution, but to attack me, Trent and the IPID members. This hostile counter investigation was later the subject of litigation by IPID.

96 The engagement of the Mabula Team to investigate me (and others) was the trigger to a number of events which were intended to remove, harass and intimidate me. The purpose of this was to stop me from conducting further investigations and to silence me.

97. On Friday 10 February 2017 at approximately 16:20, following a strange visit from a traffic officer of Johannesburg Metro Police, which made me very suspicious, I decided to immediately leave my offices at 7 Janine Road, Sandown Estate. On driving out I noticed a contingent of police vehicles converging on our offices. Realizing that something was amiss and afraid that it was another unlawful police action against me, I drove to where I could obtain legal advice.

98. It subsequently became apparent that immediately after my departure Sarah-Jane Trent was unlawfully arrested at our office. The arrest was seemingly on

charges arising out of our assistance to IPID in investigations at Sable Hills Estate for Fraud, Defeating the ends of Justice and Impersonating IPID investigators vide Kameeldrift CAS 04/01/2017. It was quite apparent to me that the arrest and charges were malicious, unlawful and had been trumped up to intimidate and harass us. We had not acted unlawfully and had certainly not committed any of the offences the police claimed that we did while assisting the IPID Investigators at Sable Hills or elsewhere.

99. I together with others arranged legal representation for Trent. She was eventually detained at Kameeldrift Police Station late that Friday night, having first been driven from place to place for several hours in the back of a double cab, with cable ties on her hands.

100. On Sunday evening, after spending Friday and Saturday nights in custody the lawyers who had been appointed to act on her behalf managed to secure her release on bail after a special Sunday court appearance.

101. It was obvious that her arrest on a Friday afternoon, after the courts had closed, was deliberately designed to incarcerate her for the weekend to punish and intimidate her – and was not for the purpose of securing her attendance at court. She was not a flight risk nor was she in a position to interfere with the investigation. Her arrest and incarceration over a weekend was unnecessary and wrong. The arrest had been fraudulently obtained a few days earlier, yet executed late on Friday afternoon.

102. The Application was not an Application for Bail but for an interdict *de homine libero exhibendo.* This application was brought because the third respondent's rights in terms of sections 10, 12, 14, 35(1)(f), 35(2)(a) and 35(2)(b) of the Constitution,

that grants person protection against unlawful arrest and detention, were blatantly infringed. Mr. LF Taljard was the deponent of the founding affidavit. I respectfully draw attention to the affidavit deposed to by my attorney of record that sets out the objectives of the application and the reasons why the arrest and detention was unlawful. I can provide a copy of the application and affidavit.

103. Because the application was brought on an extremely urgent basis no answering affidavits were filed but a court order compelling her release was made. I can provide a copy of the order. The order, ordered the Respondents to release the third respondent on bail by no later than 21h00 on 12 February 2017. Bail was only agreed by her lawyers to be introduced into the order for no other reason than to expedite the release of Trent.

104. On 13 February 2017 I, accompanied by Trent, attended a consultation at the offices of our attorneys situated at Kloofsig, Centurion. As we were leaving the offices of our attorneys we were forced by at least eight police vehicles and seventeen heavily armed police officers to pull our vehicle over. Our attorney, Spies, accompanied by Taljard was notified of the arrest.

105. I identified the commanding officers who were carrying out the arrest as Brigadier Ncube ("Ncube") accompanied by Brigadier Kgorane. I confirm that these were the same persons who were involved in Trent's unlawful arrest on the 10th of February 2017. Our attorney, Mr. Willie Spies ("Spies") accompanied by Mr. Taljard, appeared on the scene of arrest and produced the court order mentioned above. Ncube was carrying out the arrest. During the arrest Spies tried to explain to him that the arrest was unlawful as it was in contravention with a High Court order. Ncube warned Spies that if he interfered with the arrest he would also

arrest Spies.

106. After Ncube filled in some paperwork pertaining to the arrest, Spies referred Ncube the Court Order.

107. Ncube informed Spies that he was going to arrest me because, according to him, the order only applied to Pretoria Central CAS 380/4/2016. "Espionage" or Act 70 charges. I have an audio recording of the arrest and a transcription of the audio. I also have the handwritten note and acknowledgement by Ncube issued during the arrest.

108. I was taken to the Kameeldrift Police Station where I was detained.

109. An application, brought by my attorneys, for an interdict *de homine libero exhubendo* was immediately made and was successful. I was released after being detained for six hours. I was not released on bail. Just before I departed from the Kameeldrift Police Station, Ncube called me and told me he wanted to have a look at the notice to receive a J175 Summons he had just given me and requested me to hand it to him. I did so. Brigadier Ncube, tore it up in front of me. And issued a new one, which differed from the first one, in that the new one said I would be given 48 hours' notice to be arrested, instead of 48 hours' notice to receive a J175 summons. My lawyers wrote and pointed out this underhand conduct of Ncube. I can provide this letter by my lawyer.

110. The arrest was not intended to secure my attendance at a criminal trial, but was intended to harass and intimidate me. I was not a flight risk especially because I am a significant fixed property owner in South Africa and some of my businesses are mainly based here. Furthermore, I had secured a court order preventing my arrest under such circumstances, which was simply ignored.

111. As a result, I was illegally deprived of my liberty, suffered humiliation and trauma and impairment of my dignity. Furthermore, Ncube unlawfully downloaded my cellular phone and on 16 May 2017, Phahlane unlawfully published some of the private messages on my phone, by reading them out to a televised sitting of a parliamentary committee meeting.

112. The following Wednesday morning I appeared before the Pretoria Magistrates Court under case number A 16/94/2017 and case docket with reference number Kameeldrift CAS 12/01/2017. I was charged with Fraud, Defeating the ends of Justice and Impersonating an IPID investigator.

113. The prosecution against Trent and myself eventually failed in that after several postponements of the case, and on 8 November 2017 the matter was struck from the roll by the Magistrate after an application by our legal representative. There were further malicious acts by officials and malicious instigation of criminal proceedings against me on various criminal charges without reasonable and probable cause. In short the police and judicial actions against me were completely unconstitutional.

114. As indicated in this affidavit, I am able to provide to the Commission documents in support of my account of events. I am however currently abroad, having today arrived back in London from Reykjavík, Iceland. My return date to South Africa has not yet been confirmed. I presently do not have my supporting documents available to me, moreover they are voluminous. I do confirm that I do have these supporting documents at my office in Sandton. I have seen them, and undertake to make them available to the Commission shortly.

114 I will, in due course, also provide the Commission with a further affidavit in which I relate the full extent of the harassment, intimidation and

unlawful conduct that was perpetrated against me and some of my staff members by corrupt members of the SAPS and NPA prosecutors.

115 I was maliciously charged eight times (on each occasion the charge failed) during which time I was forced to spend many days in courts answering these unfounded charges at great expense to myself; my freedom of movement was also severely restricted through excessive bail conditions. I believe that I was subjected to this treatment only because I was in a position to expose the corrupt practices of senior officials and politicians.

PAUL O'SULLIVAN

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct.

This affidavit is signed and sworn to before me at LONDON on this the 06th day of AUGUST 2020, and that the Regulations contained in Government Gazette No. R1258 of 21 July 1972 as amended by Government Notice Regulation 1648, Government Notice Regulation 1428 and Government Notice Regulation 773 have been complied with.

COMMISSIONER OF OATHS

COMMISSIONER OF OATHS
EX OFFICIO: THIRD SECRETARY

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