



REPUBLIC OF SOUTH AFRICA

FORM 20

[Regulation 22]

WARRANT OF ARREST

SECTION 11(1)(a) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF WEST RIVER

HELD AT W. R. O. T. P. A. APPLICATION NO. 11/12-16-12018

In the matter between: DANIEL F. GENOARD (Complainant)

AND D. D. M. ABLEZA (Respondent)

## TO ALL MEMBERS OF THE SOUTH AFRICAN POLICE SERVICE:

The attached protection order was granted against the respondent by the Magistrate's Court on the 29/01/18 day of 2018; and

Whereas the complainant has stated in the attached affidavit that the respondent has breached a prohibition, condition, obligation or order of the protection order, you are therefore hereby authorised and ordered to forthwith arrest the respondent in terms of section 11(4)(b) of the Protection from Harassment Act, 2011 (Act No. 17 of 2011), if there are reasonable grounds to suspect that the complainant or related person is suffering or may suffer imminent harm as a result of the alleged breach of the protection order by the respondent.

GIVEN UNDER MY HAND AT Cape Town THIS 29 DAY OF January 2018



Office stamp

## Note to members of the South African Police Service:

1. In terms of section 11(5) of the Protection from Harassment Act, 2011, the member of the South African Police Service, in considering whether or not the complainant or related person is suffering harm or may suffer imminent harm, must take into account the -

- (a) risk to the safety or well-being of the complainant or related person;
- (b) seriousness of the conduct comprising an alleged breach of the protection order;
- (c) length of time since the alleged breach occurred; and
- (d) nature and extent of the harm previously suffered by the complainant or related person.

2. If the member of the South African Police Service is of the opinion that there are insufficient grounds for arresting the respondent on suspicion that the complainant or related person is suffering harm or may suffer imminent harm as a result of the alleged breach of the protection order by the respondent, he or she must, immediately, hand to the respondent a written notice contemplated in section 11(4)(c) of the Protection from Harassment Act, 2011, which calls upon the respondent to appear before a court on the date and at the time specified in the notice, on a charge of committing the offence referred to in section 18(1)(a) of the Act.



REPUBLIC OF SOUTH AFRICA

APPLICANT

J62

FORM 3  
[Regulation 4]  
INTERIM PROTECTION ORDER  
SECTION 3(2) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)

(\*Delete whichever is not applicable)

Take note: In terms of section 10(4) of the Protection from Harassment Act, 2011, the physical, home and work address of the complainant or related person must be omitted from the protection order (including any reference to such an address in documents annexed to the interim protection order), unless the nature of the terms of the order necessitates the inclusion of the address.

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF UMLALANGA  
HELD AT APRIL 2011 APPLICATION NO. 1/17/12-16 12218  
In the matter between:  
DANIEL FREDERICK LOENBAND (Complainant)  
AND  
D. D. MABUZA (Respondent)

1. PARTICULARS OF RESPONDENT

Name and surname: D. D. MABUZA  
Address: 7 GOVERNMENT BOULEVARD  
BUILDING 2 RIVERSIDE PARK  
EXTENSION 2  
Contact number (telephone number/cellular phone number/facsimile number/e-mail address (whichever is available)): 018 266 2473

2. PARTICULARS OF APPLICATION

The complainant applied for a protection order against the respondent in terms of the Protection from Harassment Act, 2011 (Act No. 17 of 2011). This court, after considering the application, issued an interim protection order against the respondent.

### 3. PARTICULARS OF INTERIM PROTECTION ORDER

In terms of the interim protection order:

3.1 The respondent is prohibited by this court from —

(a) engaging in or attempting to engage in harassment of —

\*(i) the complainant; and/or

\*(ii) the following related person/s:

- .....
- .....
- .....
- .....
- .....

\*(b) enlisting the help of another person to engage in harassment of the complainant and/or above related person/s; and/or

\*(c) committing any of the following act/s:

- (i) *The interim orders are as per annexure A.*
- (ii) .....
- (iii) .....

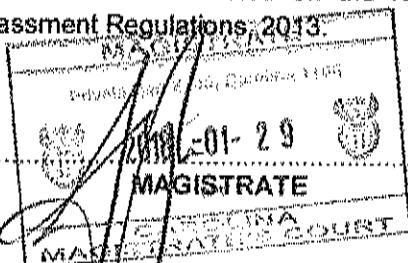
\*3.2 The court imposes the following additional conditions that are necessary to protect and to provide for the safety and well-being of the complainant or related person/s:

- (a) .....
- (b) .....
- (c) .....

\*3.3 The court orders:

|      |                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| *(a) | That a member of the South African Police Service is to seize the following weapon(s):<br>.....                                                                                                                                                                                                                                                                                                                 |
| *(b) | That a member of the South African Police Service is to accompany the complainant or related person to the following residence: .....<br><br>to supervise the collection of the complainant's or related person's personal property set out in paragraph 8 of the application for a protection order, and such member is authorised to take all reasonable steps to effect the collection of the said property. |

4. The respondent is called upon to show cause on 19/2/2018 (the return date) at 9:00 (time) at the abovementioned court, why the court should not issue a final protection order.
5. The return date specified in paragraph 4, above, may be anticipated by the respondent on not less than 24 hours' notice to the applicant and the court.
6. If the respondent does not appear on the return date and if the court is satisfied that —  
 (a) proper service has been effected on the respondent; and  
 (b) the application contains *prima facie* evidence that the respondent has engaged or is engaging in harassment,  
 the court must issue a final protection order.
7. A copy of the application of the complainant and the record of any evidence noted during proceedings are attached for the information of the respondent.
8. In terms of section 16 of the Act the court may make an order as to costs against a party if it is satisfied that the party in question has acted frivolously, vexatiously or unreasonably.
9. In terms of sections 3(3) and 15(a) of the Protection from Harassment Act, 2011, Carolina (name and surname), who is a \*clerk of court/\*sheriff/\*peace officer is hereby directed to serve the interim protection order, a copy of the application for a protection order and the record of evidence noted on the respondent in accordance with regulation 28 of the Protection from Harassment Regulations, 2013.



DATE

Office stamp

**TAKE NOTE:**

- (a) A warrant of arrest has been authorised for the arrest of the respondent, the execution of which is suspended subject to the respondent's compliance with any specified prohibition, condition, obligation or order contained in this protection order.
- (b) A respondent who contravenes any specified prohibition, condition, obligation or order contained in the protection order is in terms of section 18(1)(a) of the Protection from Harassment Act, 2011, guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years.

## Annexure "A"

The respondent should not:

1. Engage in any form of harassment or victimization;
2. Engage in any verbal or other communication aimed at the applicant or related person, by any means, whether or not conversation ensues that is aimed to cause any mental, psychological, economic or physical harm;
3. Directly or indirectly pursue, induce, incite or instruct government departments, state institutions, parastatals, any government officials / civil servants, any third parties or land claimants to intimidate, harass or victimize applicants by any means, whether or not conversation ensues, aimed in any manner to cause any mental, psychological, economic or physical harm;
4. Directly or indirectly pursue, induce or incite or instruct government departments, state institutions, parastatals, any government officials / civil servants, any third parties or land claimants to interfere with the applicants business in any manner, by any means, whether or not conversation ensues, aimed in any manner to cause any mental, psychological, economic or physical harm;
5. To refrain from any attempts or actions or instructions to damage the applicants reputation;
6. To refrain from any activity to collapse the applicants business or interfere with the applicants clients;
7. To refrain from any attempts or actions or instructions to drive applicant out of the Great Nkomazi River Valley;
8. To refrain from any direct or indirect activity or instructions, whether conversations ensues or not that may lead to unfairly blocking, frustration or sabotaging the applicant in carrying out his business activities by withholding authority or permits which he is entitled to receive or get or be unissued with by any provincial authority without any justification for such actions;
9. To engage in any activity whether directly or indirectly that may be perceived to influence the decision making body of any institutions, parastatals or government body that negatively or unduly influences the exercise of their administrative duties or legislative authority;
10. Allow any civil servant in the course of their duties to falsify minutes, reports or instruct the police to destroy official government documents.
11. To interfere with the applicants daily private lives and / or his family, or members of staff;
12. Insult, intimidate or directly or indirectly abuse the applicant.

IN THE MAGISTRATES COURT FOR THE DISTRICT OF CAROLINA

HELD AT CAROLINA

Case No:

In the matter between:

FREDERICK COENRAAD DANIEL

Complainant

and

DAVID DABEDE MABUZA

Respondent

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FOUNDING AFFIDAVIT

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I, the undersigned,

FREDERICK COENRAAD DANIEL

do hereby make oath and state:

1.

1.1. I am an adult male businessman and conservationist, residing at the Cradle of Life Reserve, Badplaas, in the Mpumalanga province.

1.2. The contentions in law contained herein are made on the legal advice received. The Applicants accept the advice so received to be in accordance with the prevailing legal position.

1.3. The facts contained herein are within my own knowledge and are true and correct.



## THE PARTIES

### 2.

- 2.1. The Claimant is **FREDERICK COENRAAD DANIEL**, the founder of the Nkomazi, Komati Springs and Cradle of Life projects in the Great Nkomazi River Valley ("GNRV"), in the Badplaas and Barberton area of the Mpumalanga Province.
- 2.2. The Respondent is **DAVID DABEDE MABUZA**, the Premier of the Mpumalanga Province, pursuant to the provisions of section 128 of the Constitution, holding office at 7 Government Boulevard, Building 2, Riverside Park 2, Mbombela, Mpumalanga Province.

## INTRODUCTION

- 2.3. Harassment and victimization are an inescapable consequence of fraud and corruption.
- 2.3.1. Despite the fact that there are legislative enactments which cast a duty on the respondent to act lawfully in respect of the citizens of the Province, the respondent needs to urgently explain to this above honourable court under oath, why he and / or his political party and or officials under his authority have directly and indirectly use his provincial administration to relentlessly pursued me over an extended period of time, with the ultimate goal to drive me out of the Great Nkomazi River Valley ("GNRV").
- 2.3.2. Actions have been aimed to:
- 2.3.2.1. Assassinate my character;
- 2.3.2.2. Block, frustrate, sabotage my business, deny me service delivery in order to collapse and destroy my business; and
- 2.3.2.3. Place me on a hit list.

- 2.4. The respondent started his political career in the mid - 1980's.
- 2.5. Since 1994, the respondent has held senior political positions in the ANC, the Mpumalanga Government and Parliament which has provided him with a front row seat of the disastrous impact of corruption on the Mpumalanga communities, and more specifically in the GNRV.
- 2.6. The respondent's political career has mostly played out in the Mpumalanga Province, stretching from the dawn of South Africa's new democracy in 1994, from which time he has held a number of senior, powerful and influential positions, in ruling party, the ANC, Parliament in Cape Town ("**Parliament**"), and Member of the Executive Council ("**MEC**") of the Mpumalanga provincial government;
- 2.7. The respondent started his political career in the United Democratic Front (UDF) as a teacher, after which he served under Dr Mathew Phosa's administration as Mpumalanga MEC for Education..
- 2.8. As a result, the respondent served as MEC for Education in Mpumalanga from 1994 whilst also being the Regional Chairperson for the Mpumalanga ANC between 1994 and 1998.
- 2.9. In 2009, the respondent became Chairman of the provincial ANC in 2009, and
- 2.10. In December 2017, at the national ANC's 54th conference, he has ascended into the 2nd highest position in the ANC when at 57 he became the Deputy President of the ANC, at the same age that President Jacob Zuma did in 1997.

A list of these positions is annexed hereto, marked "FD1".

- 2.11. The respondent's political career has been dogged by controversy which started for him after a national outcry when the provinces matric result fiasco were highly inflated from 51% to 71% under his watch.

## DECLARATION OF WAR

### 3.

- 3.1. Mabuza is known as a master manipulator who publically calls himself "*the cat*".
- 3.2. When the Badplaas land scam became public, the respondent had become the Deputy Chairperson of the Mpumalanga province ANC in 2005;
- 3.3. By August 2008, the respondent had become the Chairperson of the ANC in Mpumalanga;
- 3.4. During this period, various bold and unlawful retaliations were planned and executed against me and my project. As an example, during May and specifically on the 18 July 2008, unlawful raids by the MTPA were planned with precision and executed, against me with the sole intention to destroy my reputation and simultaneously provide the Mpumalanga Tourism and Parks Agency ("MTPA") with further excuses to withhold issuing an approved elephant permit.
- 3.5. They further used this excuse to withhold permits for the large predators and the remainder of the big 5, specifically lion;
- 3.6. Three months after the respondent became the Chairperson of the Mpumalanga ANC, on the 24 November 2008, the MTPA declared war on me, as a private citizen.
- 3.7. This war was declared for no apparent reason. It is however important to realise that it was done:
  - 3.7.1. After I had blown the whistle on the biggest land scam in the history of South Africa. The respondent's provincial administration had shamefully allowed the robbing of the poorest of the poor by looting the provinces land restitution funds;

3.7.2. After the unlawful raids of May and July 2008, and

3.7.3. Long before I issued a damages action in the North Gauteng High Court under case number 34502/2010, of R 1,174,610,740.00 damages against MTPA and other government bodies (the "damages claim");

3.8. This unilateral declaration of war is contained in a memorandum from Jan Muller (who I currently have an Interim Protection Order ("IPO"). The memo sets out his harassment plan to the CEO in order to get approval to drag other government departments into the fight against me. In this memo, he recommends the following:

*"This office recommends that due to the involved nature of the above that a formal briefing session be held to inform the CEO and Board on the issues at hand. Further to the above there are other Governmental Bodies involved and that a combined experienced legal team be assigned to deal with the matter."*

A copy of this memo is annexed hereto, marked "FD2".

3.9. In May 2009, the respondent became the Premier of the Mpumalanga province;

3.10. As it happens, the new CEO of the MTPA tried to enter into a Settlement Agreement with me to avoid the damages.

3.11. Instead of supporting this initiative, the respondent presided over a well orchestrated assault campaign on my life, property, business, staff and family, which included my 84 year old mother.

3.12. Only the most powerful politician in the Mpumalanga province has the ability to co-ordinated the resources of an entire province against a citizen, as what happened to me.

3.13. A series of events and provincial departments (from the Department of Water Affairs, Labour, Agriculture, Safety and Security), RLCC, MTPA, the local municipality, the local

ANC, so called land claimants and known criminals set about to collapse my entire business and to drive me clear out of the area and the province.

I attach a copy of a report setting out the declaration of war annexed hereto, marked "FD3".

I attach a copy of a report setting out the declaration of war annexed hereto, marked "FD4".

Further oral evidence in this regard will be led under oath on the return date of this matter.

3.14. Whilst the respondent failed to drive me out the area, he succeeded to collapse and destroy a once in a life time, world class R 2.6 billion project with national and international investors.

3.15. Despite this onslaught, I have a long record of trying to be reconciliatory.

Oral evidence in this regard will be provided on the return date and hearing of this matter.

3.16. On the 14 March 2017, my attorney advised me that the contents of the court file in the damages claim action had been removed from the High Court;

3.17. I read the MTPA Annual Financial Report 2015/2016 and discovered that under the heading Contingencies, on page 141 to 142 and 198 and 199, the following information:

3.17.1. *"Following a resolution of the Mpumalanga Provincial Government Executive Council to centralise the management of critical litigation matters, the MTPA has during the month of October 2015 transferred the management of this court case to the Premier's Office through DEDT for further handling".*

A copy of the appropriate pages from this Annual Report is annexed hereto, marked "FD5".

- 3.18. When my attorneys met the State Attorney at the time, he was on the verge of retiring and having difficulty getting any instructions as he was convinced mediation was appropriate in this matter and would save the taxpayer substantial legal costs;
- 3.19. Various attempts to contact the Premiers office by my Advocate Alan Nelson (SC) and an attorney Brandon, was stone-walled.
- 3.20. In fact, Brandon was threatened to be chased out of the Premiers office and told that if he never mentioned my name before him, ever again he would never have access to that office ever again;

Oral evidence in this regard will be presented under oath at the return date.

- 3.21. In my final attempt to engage with the Premier's office during April 2017, I had my own Mussolini moment, when the respondent vowed that the things he will do when he becomes Deputy President of the National ANC in December of that year, was to come after me to expropriate my land and business, without compensation.

Oral evidence in this regard will be presented under oath at the return date.

- 3.22. As will become evident, the unemployment, instability and conflict that has plagued the area, is entirely self inflicted and is as a result of irresponsible and selfless political decisions that have undermined the rule of law, created instability, uncertainty and conflict on a grand scale.

#### ZERO TOLERANCE FOR CORRUPTION

- 4.1. Apart from the obvious reasons, I have a zero tolerance for corruption. In addition to this, I wish to operate my project lawfully and this requires that the Cradle of Life project, by its very nature requires a corruption free environment.

To avoid overburdening this affidavit, this is explained in a memorandum, annexed hereto, marked "FD6".

#### **SOURCE OF ALL CONFLICT IN THE GNRV**

#### **5.**

- 5.1. The wholesale collusion, corruption, theft of public funds, political interference and harassment has been so severe that it has completely hollowed out the ability of vital state organs such as the RLCC and MTPA to provide the public and private business with services that they were originally established to provide.
- 5.2. The concerted effort to collude and cover up the corruption and drive me out of the area became so intense that I was forced to get a number of Interim Protection Orders ("IPO") and warrants of Arrest against senior provincial executives and civil servants and Dubai World staff and directors, in order to:

##### **5.2.1. Case number 38/16**

- 5.2.2. Prevent the Respondents (Mr. Ulrich Schutte, Heinrich Carstens and Tersius van der Walt) senior staff of Dubai World from:

- 5.2.2.1. Setting fire to the Cradle of Life Lodge;
- 5.2.2.2. Coming within 30 kilometres of the Nkomazi Reserve;
- 5.2.2.3. Carry any firearms;

##### **5.2.3. Case number 49/16**

- 5.2.4. Prevent the Respondent (Mr. Willem Clase Dreyer) a director of a

company wholly owned by Dubai World, from:

- 5.2.4.1. Inciting anybody, intimidating or setting fire to my property;
- 5.2.4.2. Interfering with my business or creditors in any manner;
- 5.2.4.3. Engaging in verbal or other communications aimed at me or related persons by any means whether or not conservation ensures or not to cause mental, psychological or economic harm.

**5.2.5. Case number B06/2017**

5.2.6. Prevent the Respondent (Mr. Johannes Muller) a senior manager of the MTPA, from:

- 5.2.6.1. Incite third parties to intimidate, harass or victimise applicants;
- 5.2.6.2. Falsify minutes, reports to frame claimants causing psychological, mental or physical harm to applicants;
- 5.2.6.3. Causing ongoing harm to the claimants (applicants);
- 5.2.6.4. That the Police should consider making investigation which may give rise to crucial offence due to the conduct, of the respondent in the line of his duties and or his private capacity;

**5.2.7. Case number 41/2017**

5.2.8. Prevent the Respondents, the executives management of the MTPA from:

- 5.2.8.1. To Interfering with the applicant's daily private life and / or his family, members of his staff.
- 5.2.8.2. Insult, intimidate and or directly or indirectly abuse the applicant;
- 5.2.8.3. Induce anyone or interfere with the applicant business activities in any manner;

- 5.2.8.4. To unfairly block the applicant in carrying out his business activities by withholding authority or permits which he is entitled to receive or get, or be issued with by them or the authorities without any justification for such actions;
- 5.2.8.5. To in engage in any activity that may be perceived to influence to influence the decisions making body in the exercising of their duties.

5.3. By way of further examples:

- 5.3.1. Both the Regional Land Claims Commissioner ("RLCC") and the MTPA were in a state of paralysis due to political interference,

Oral evidence in this regard will be provided under oath by forensic experts and others on the return date of the hearing of this matter, which the politician involved in the land fraud, and which was referred to, is the Respondent.

**The RLCC**

- 5.3.2. The RLCC project manager has testified under oath that he was blocked from performing the key land claims verification process. As a result he was forced to submit incomplete reports due to pressure from the politicians who had an interest in the land owned by Visagie. Visagie confirmed that his partner was the respondent.

Oral evidence will be provided under oath on the return date of the hearing of this matter, that the politician was indeed the Respondent.

**The MTPA**

- 5.3.3. The stakes to cover up the corruption complained of has become so high that civil servants like the MTPA senior manager in charge of permits, has not only been threatened with:

- 5.3.3.1. His life, career, pension and job, but also

- 5.3.3.2. Council that they would withdraw their support for him and that he would have to pay his own defence

*"... my work is on the line, my, my career is on the line, my whole pension is on the line and everything is on the line":*

- 5.3.4. To asking the police to destroy documents. He admits that:

*"And so I phoned him and say better destroy that minutes, now it is part of the my falsification of documentation and forcing people to destroy evidence."*

- 5.3.5. He has also admitted being placed under instruction not to perform his administrative duties and to block permits.

5.3.5.1. In order to do the above, explains why he was forced to invent reasons for not doing so, and found themselves in a position where they had to discredit and destroy my reputation.

- 5.3.6. He further states that his legal team have threatened him from changing his testimony to tell the truth:

*"This specific dinges, it is against me the protection request but I can assure you with the politics, [political situation that is going on now, the , they now, they do not care about me, you know."*

*"And let us say for instance, and that is why that leap of faith that you are talking about, do you know how big is that leap of faith I must take?"*

*"If they know for instance I did it without their consent and approval ... they will withdraw the financial support and they will ruin me because you know they pay Andre R 36000 a day... I cannot, that is for one, the other one is R 18,000 so both of them, maybe three of them is going to be there, we are talking about R 75000 a day. They will say ... Okay Jannie it is your business now... You are going to do it yourself." That is the big, big thing now and..."*

*"My concern is now, is this, let us say this thing boomerang, I am a goner, forever. I will loose everything in my life because I need to fight this thing on my own,"*

*"If I get out I loose. A lot, a lot, you know".*

"You will, you will not get me in court for nothing, you know, and I think that is the only thing that they still keep in mind to say, okay you got a job, you know if it was not for that. But I don't think they care a lot anymore because... okay, the, one of the main factors is the land claims commissioner and things like that but all is lumped into one and it is a political issue. You know, okay you know all the politicians involved in all this stuff, I am not going to name them but it is a war that I know o, I think that Fred biggest war but ... [Underlining and bold print, my emphasis].

"I am quite worried about, you know, they have tried to take me out a couple of time, I do not know if you know that..."

"You life?" Ya

"Ja you have told me. Ja"

"Ja you have told me, you told me about the ... And the poison and they want to rob me... You told me about the poison. Ja, no-no, And your life is at stake"

"I withdraw all my statements and I am klaar, they will hang me. They will shoot me on the first corner or let somebody drive with a truck over me. You know, this, you know how politicians work and how these guys just disappear and things like that. And I can assure you I will be on their hit list. And you know, ja, I do not want to be on their hit list, I still want to live."

"Ja these people do not care".

"So you see, because they do not worry. They. They gave instructions today for Ferreira to be part of the team and the other one because they don't worry."

"Ja and so they do not worry and you know, as there is two things that are unacceptable for me. And this is the one thing to say I will walkout in August and to withdraw because they will just close the doors on me. They will, I will loose everything and they will say okay now you are on your own, whatever happens, you are on your own, and I have seen what happens to people that turned against the government, especially in this province you know. The, they make people disappear these guys if they want to..."

"That facility is world class facility...and it is there, small things we can sort out. And that is the things that I can control but the rest is political and like I said they will, they will crucify me, they will, they will make it so difficult for me and, and that is why, ja that second part..."

*"They, these guys will kill me, that is all. They will just take me out."*

*"... they laugh this thing off. I had a fight with one of the legal guys this morning ...about the whole thing because if they are untouchable, the touch me, they do not touch them..."*

A copy of these conversations taped by Jan Muller himself is annexed hereto, marked "FD7.

- 5.4. The above transcripts taped by Muller himself show that he has not only been captured by politicians, but also by his own legal team which has him in a tight grip of fear.
- 5.5. As a result, he had become so stressed and compromised that his only option available to him was to book himself into hospital. It had become too risky and stressful to continue work under these life threatening circumstances when he was forced to act unlawfully. The above has been confirmed by a letter from his attorney Matsane and Dr Brauteseth.
- 5.6. The result is that he was medically boarded 3 months before his retirement at the end of August 2017.

A copy of this medical certificate dated 19 May 2017, two days before the last conversation with John Allen, and letter dated 7 June 2017, is annexed hereto, marked "FD8.

- 5.7. Faced with well documented levels of corruption, which cause the state capture (hijacking) of key provincial departments, institutions and civil servants had come into conflict and clashed with the respondent.

#### CIVIL SERVANT CONDUCT:

- 6.1. What is more, after having received unlawful instructions at the pain of death or economic and reputational ruin, the MTPA and RLCC staff had to create false land claims these institutions and civil servants were compromised to maintain this deception. This explains the well documented:
- 6.1.1. Death threats;
  - 6.1.2. Ongoing character assassination;
  - 6.1.3. Spreading a false narrative;
  - 6.1.4. Stone walling: Failure / refusal by RLCC to comply with the reasonable request to supply information regarding the merits of the land claim;
  - 6.2. False promises and expectations to communities and inciting poor and vulnerable communities to violence;
  - 6.3. Attempts to force access to the land as a precursor to expropriate the land;
  - 6.4. Falsification of reports, minutes, etc;
  - 6.5. Unlawful raids;
  - 6.6. Violent demonstrations and destruction of fences;
  - 6.7. Consistent refusal to subject even the smallest of disputes to mediation;
  - 6.8. Attempts to extort Griffiths an independent investigator to try and force me to accept the land claims, despite the uncertainty of its merits;
  - 6.9. Abuse of court process to force access into Nkomazi and have me imprisoned.
  - 6.10. Further abuse of the court process by referral of land claims under case 33/2007, before research was completed, before mediation was attempted, only to avoid having to supply information under the application for information act, and then parking the case for 10 years without any attempts to adjudicate

it.

- 6.11. Contempt of court by respondent who promised a violent crowd that he personally would ensure they get the land, despite the matter being referred to the Land Claims Court.

#### THE RESPONDENTS CONDUCT

7.

- 7.1. As shall be seen below the respondent played a key role in:
- 7.2. Meeting with so called land claimants and setting up an unlawful committee dedicated to violence;
- 7.3. Setting up an unlawful committee, the Greater Badplaas Land Claims Committee ("GBLCC"), and installing himself as its Chairman (whilst being the MEC for Agriculture), which under his leadership unleashed mayhem in the area;
- 7.4. Personally threatening me in a telephonic conversation to admit to the land claims or my life would be in danger;
- 7.5. Attending the most violent of all demonstrations during which he committed contempt of court and inciting the rioters further by stating he would give them back their land, when the matter had been referred to the Land Claims Court in March 2008 already.
- 7.6. Ignoring / condoning the fact that various damning, independent forensic reports warned of a major land scam, which reports were swept under the carpet;
- 7.7. Not once denouncing the violence and damage to property;
- 7.8. Take any steps to diffuse the conflict, but instead played a key role to inflame it;
- 7.9. Not only protecting Visagie but assisted him with further illegal payments of more than R 3.3 unlawful payment to Visagie. This after Visagie had been fingered in

the land scam.

7.10. The EFF have already opened up a fraud docket in this regard.

8. All the above took place, whilst the respondent made contradictions to the press by deny this and using the excuse that the land claims were not his portfolio.

#### **HEART OF THE PROBLEM: STATE CAPTURE:**

##### **9.**

- 9.1. The heart of the conflict lies in the capture of provincial institutions by the respondent, which saw unlawful instructions, milking the land reform funds and abusing the wildlife permit system

This is set out in a document called Heart of the Problem: State Capture, annexed hereto, marked "FD9".

#### **FRAUD, LIES AND DISINFORMATION**

##### **10.**

- 10.1. The most destructive consequence of the abuse of power and state capture is that provincial officials are being forced under pain of death to implement the unlawful instructions of politicians. The service delivery failures, conflict and chronology of events shows how compromised civil servants have to preserve their jobs by inventing a false narrative by:

10.1.1. Falsifying reports;

10.1.2. Falsifying minutes;

- 10.1.3. Requesting the police to destroy official;
  - 10.1.4. Defeating the ends of justice;
  - 10.1.5. Framing the claimant; and;
  - 10.1.6. Expending scarce public resources to defend the indefensible.
- 10.2. A further consequence of state capture is that official planning studies on which private business convinced investors to rely on, are circumvented;
- 10.3. In addition, from what civil servants are saying, the legal teams representing the corrupt officials are forcing their witness's financial ruin if they admit what is really going on.

Oral evidence in this regard will also be given at the hearing of the matter.

#### **CREATION OF A SHADOW STATE**

##### **11.**

- 11.1. The nature of the capture of the Mpumalanga Province is that officials labour under unlawful instructions by politicians not to perform their duties without fear or favour.
- 11.2. Apart from the fact that this disrupts service delivery, creates conflict, it also results in an unlawful parallel state that circumvents the constitutional state, and is maintained by death threats, violence, terror, harassment and victimization, where the interests of a few powerful individuals are put before the rest of the citizens.

Oral evidence in this regard will be made at the hearing of this matter.

#### **HOSTILE BUSINESS ENVIRONMENT**

##### **12.**

- 12.1. The land claim fraud involves:
  - 12.1.1. Msauli Village;
  - 12.1.2. Songimvelo Provincial Game Reserve;
  - 12.1.3. Nkomazi Game Reserve;
  - 12.1.4. Komati Springs,
  - 12.1.5. Cradle of Life; and
  - 12.1.6. Ndwandwa Community;
- 12.2. The MTPA admitted to the Msauli and Songimvelo land claims because they were in control, without verifying its merits.
- 12.3. The same happened with the Ndwandwa Claims. However, the Ndwandwa claims were more complicated as:
  - 12.3.1. Visagie, with the assistance , and or blessing of the respondent, nd the RLCC inflated the land by up to 2,000%;
  - 12.3.2. Visagie was allowed to hijack the Trust as they needed a vehicle to transfer the inflated land claims into, and the founding trustees did not want to co-operate;
  - 12.3.3. Visagie with the help of the RLCC forced the consolidation of 6 separate communities together (to create a bigger budget to milk).
  - 12.3.4. Visagie kept the beneficial use of the land;
  - 12.3.5. Visagie, the RLCC and the respondent then used the Trust as a platform to harass me and create a smoke screen of violence in the area. This was part of the plan to use the Trust to force me to give up his land and chase me out of the GNRV.

- 12.4. The inescapable result of the above corruption is harassment and victimization as civil servants in the provincial government become occupied with protecting their loot and benefits, avoiding prosecution, and covering up corruption for the benefit of a few connected persons at the expense of service delivery and the wider populace.
- 12.5. The above conduct perfectly explains why Mpumalanga civil servants have become so intensely hostile towards private business as they see them as competition and a threat to their freedom.
- 12.6. Under these conditions it becomes very difficult to operate a business.
- 12.7. In the case of the Cradle of Life project, founded and operated by the Claimant, the state capture has been particularly prevalent in the RLCC, the MTPA and its predecessor the Mpumalanga Parks Board ("MPB"), those government departments and parastatals enthused with the key aspects of service delivery required for the project to operate lawfully and sustainably.
- 12.8. For conservation and tourism, these key departments and parastatals are tasked with critical responsibilities and service delivery prerogatives, which are of vital importance to the private business, the claimant's project and the wellbeing of our communities.
- 12.9. The respondent has held powerful executive positions in the ruling party, the ANC as well as in the Mpumalanga provincial government since 1994.
- 12.10. Under the respondent's watch as the chairman of the Mpumalanga provincial ANC and Premier of Mpumalanga, the province has been described by journalist Spho Hlongwane of the Daily Maverick as: The ANC's provincial criminal enterprises problem:
- 12.10.1. *"The ANC is facing a very serious crisis in the provinces: people are happy to resort to criminality to get their way. Sometimes it is rampant corruption, and in the case of ... it is murder... The African National Congress is facing a meltdown of terrifying proportions out in the provinces. There are two assaults on the soul of the party: in the*

one, powerful party bosses like John Block in the Northern Cape and David Mabuza in Mpumalanga are running the party – and the province – like their personal fiefdoms, to be looted at will.

12.10.2. "In Mpumalanga, political assassinations are all too common. Caswell Maluleke, a council speaker in Ehlanzeni, was shot 14 times in April 2000. He was the mayor of Bushbuckridge at the time and had been appointed to help re-establish the bankrupt and destroyed Bohlabela District Municipality in Limpopo. In 2009, Mbombela speaker Jimmy Mohlala was killed after he blew the whistle on tender corruption around the construction of the World Cup stadium in that city. Last year, Ehlanzeni chief whip John Ndlovu was murdered."

12.10.3. "Several provincial ANC members said the political landscape was just a few bullets and funerals away from 'Mpumalangaisation', a reference to the province where political murders are nearly as commonplace as potholes."

A copy of this article: ***A Rise of the ANC Provincial criminal enterprise*** can be made available on request.

12.11. Professor Jane Duncan reported that in March 2010, the Sunday newspaper warned against "a culture of political assassination" becoming entrenched in the Mpumalanga province. She states that:

*"Assassination is the ultimate form of censorship. Political assassinations create a climate of fear, where whistleblowers may choose to stay silent instead of speaking out about wrongdoing in government. As a result, the already alarming high levels of corruption in some improvised provinces may grow unchecked".*

A copy of the article: ***A culture of political assassinations*** written by Prof Jane Duncan on the 2 November 2010 can also be made available on request.

12.12. In the book ***Eerie Assignment, A journalist's nightmare in Mpumalanga*** Sizwe sama Yende confirms the following:

*"Working as journalist in Mpumalanga - arguably the most violent, corrupt, volatile and politically unstable province of South Africa".*

12.13. The main character in the book is the respondent David "DD" Mabuza whose term as Premier of Mpumalanga and a chairperson of the African National Congress (ANC) is described in the book as:

12.14. *"During his term, there have been political killings, massive corruption in government and political instability"*

A copy of this book can be made available on request.

12.15. Under the respondent's leadership, the citizens have witnessed Mpumalanga being turned into a criminal enterprise, as well as the respondent's personal fiefdom. It is also during this period that the above mentioned government departments and parastatals became captured by his patronage network, a criminal cabal, known as the bullet proof crew.

Oral evidence will be available to prove that a provincial shadow state has been operating, making it impossible to do business competitively or lawfully.

12.16. As a whistleblower who exposed South Africa's largest land scam, I was notified by concerned ANC members that I had been placed on a hit list by the provincial ANC and my life was on the line.

#### **HARASSMENT: DEATH THREATS**

### **13.**

13.1. Because I am seen to be anti - corruption, the respondent himself has directly and indirectly retaliated against me on many occasions, which included a threatening me both directly and indirectly:

13.1.1. My life;

13.1.2. That the local communities would turn violent;

13.1.3. That when he becomes Deputy President of the ANC, my property would be the to be expropriated without compensation;

Oral evidence in this regard will be led in open court.

13.2. Put simply, the Mpumalanga province has been stolen and sold to the highest bidder by the respondent who controls it like a mafia boss.

13.3. In order to cover their tracks, avoid accountability and prosecution, the full might of the province has been deployed to go after those exposing the corruption and who are unlawfully pursued, attacked, intimidated, and harassed.

13.4. This includes assassinations, death threats, violence, arson, damage to property, and as already proven in the High court, certain victims have even been kidnapped and tortured.

#### **BREAKDOWN IN TRUST**

#### **14.**

14.1. Whilst it is no surprise that this ongoing unlawful conduct has caused a complete breakdown of trust between the RLCC on the one hand, the MTPA on the other hand, and the communities they serve which includes certain private business like the Cradle of Life, except those part of the respondents extensive patronage network.

Oral evidence in this regard will be led in open court.

14.2. What does come as a surprise is the breakdown in trust between me and the politicians in charge of the Mpumalanga province, because I have always endeavoured to act within the law, and in the interest of conservation, tourism and our community?

14.3. As can be seen by various memos and recorded conversations by civil servants, War was declared on me long before any damages action was launched.

14.4. The respondent had the power and opportunity to intervene and resolve the land scandal in the GNRV but because of his close involvement, choose to inflame the situation even further.

Oral evidence in this regard will be led in open court.

14.5. This also explains why the respondent became personally involved to co-ordinate the worst retaliation imaginable against me with the full force of the provincial government, its departments, institutions, parastatals and resources.

14.6. Since 1994, in his capacity as Regional Chairperson, Deputy Chairperson and Provincial Chairperson of the ANC, ANC leader of business in Mpumalanga, MEC for various department, member of the Mpumalanga Legislative, and Premier of the Mpumalanga province, only the respondent has the power and position to marshal all the provincial departments and resources in the manner that has now been chronologically documents, which actions have a sole purpose and that is to close down or collapse my business, ruin my reputation, and drive me clear out of the GNRV.

**THE RLCC:**

**Unlawful conduct:**

15.

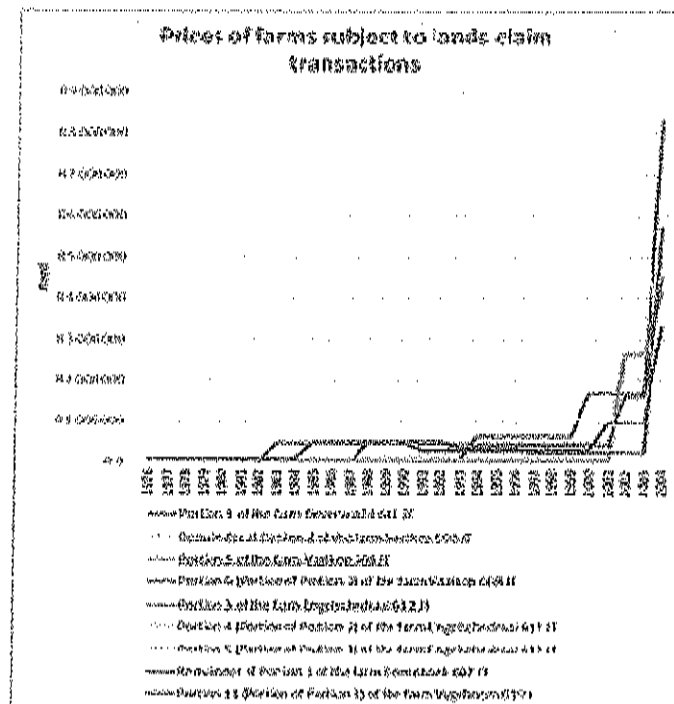
15.1. I will now give a background of the unlawful actions and conduct of the RLCC and the MTPA, which politicians have masterminded and condoned:

- 15.2. As will be set out below, summary of the RLCC consistent unlawful and *mala fide* actions and the abuse of authority and processes entrusted to them in terms of the relevant land reform legislation that led to the land claim mess in the GNRV.
- 15.3. Since 1999, over a long period of our engagement with the RLCC, my attorneys and I have begged and pleaded to be provided with information in order to consider and investigate the land claims on Msauli, Nkomazi, Komati Springs and Cradle of Life in order for the claimant to meaningfully engage with the RLCC.
- 15.4. As it is entitled to by law, I also requested that the claims be referred to mediation, for the land claimants to be represented by independent persons in order for meaningful dialogue to take place, for action on the part of the RLCC to facilitate discussions between the parties and to ensure that our correspondence is answered, which the RLCC has spectacularly failed to do.
- 15.5. These were all reasonable requests which the RLCC refused / failed to entertain.
- 15.6. In addition to this, I also requested the then Minister of Agriculture and Land Affairs to assist. Even that request fell on deaf ears and led to nothing.

10.

- 10.1. Attached hereto is Annexure "FD10", which sets out 56 pages regarding the shocking manner in which the RLCC has dealt with land claims on my property. The document sets out :
- 10.1.1. History of the fake land claims and the unlawful actions of the RLCC to use these claims to drive me out of the area;

- 10.1.2. My dealings with the RLCC;
  - 10.1.3. The RLCC refusal to supply the merits of the land claims or refer the matter to mediation as provided for by the Restitution Act;
  - 10.1.4. Ignoring a string of damning, independent forensic reports and the respondent and the RLCC working with Visagie, the main fraudster to incite people to violence and allowing him to act as the *day facto* land claims commissioner;
  - 10.1.5. Visagie secures land at bargain prices without paying for it because he obtains irregular financial from RLCC in the form of unlawful state guarantees;
  - 10.1.6. RLCC ignores its own valuations and pays higher than the inflated land prices.
  - 10.1.7. The respondent assists Visagie's with illegal payments for more than R3.3 million;
  - 10.1.8. Respondent and RLCC allows Visagie to inflate land prices with up to 2000%
- 15.7. A sample of properties shows that this pattern is repeated.



- 15.8. On 25 May 2004, Spoor reported this land scam to the RLCC.
- 15.9. The respondent cannot deny that he was unaware of massive scale of the land fraud going on.
- 15.10. On 2 September 2004, the RLCC tried to force me to admit to the land claims.
- 15.11. On 7 September 2004, Spoor recorded attempts by the RLCC to extort an independent investigator. Instead of co-operating, the RLCC threatened Griffiths to remove him off their preferred valuers roll and to try a force him to get me to admit to the land claims.
- 15.12. The RLCC ongoing refusal to answer letters and their refusal to supply information re the merits of the claim, the beneficiaries, etc
- 15.13. RLCC and Visagie bribe journalist Chris Louw.
- 15.14. RLCC attempt to expropriate my property.
- 15.15. Spoor brings application for access to information held my RLCC in terms of the Promotion of Access to information Act 2 of 2000.

- 15.16. To sidestep this application to provide information, the RLCC unlawfully refers the land claims to the Land Claims Court, which has turned out as a strategy to frustrate its adjudication and merely park it, in order to side step having to supply information regarding the merits of the land claims.
- 15.17. By then, the RLCC had painted themselves into a corner, and was party to the continuation of the land scam.
- 15.18. Information relating to four (4) of the claim numbers included in Spoor's request for information was not included in the Notice of Referral. The claim form relating to one of the claims of which the applicants required information was also not included in the documents in support of Notice of Referral.
- 15.19. As a result, the referral to the Land Claims Court was incompetent and/or flawed as of the eight claims included in the referral, only 2 were published in the first and second notice, this notwithstanding the RLCC declaring in a notice of referral that:
- "The claims were, after lodging, preliminary researched, investigated and accepted as prima facie valid in terms of Section 2 of the Restitution Act, and then published in the Government Gazette on 21 May 2004 under notice number 26344 of 2004, in terms of section 11 (1) of the Restitution Act".*
- 15.20. No information was included in the supporting documents attached to the Notice of Referral in respect of four of the claims. The claim document in one of the claims was also not attached.
- 15.21. On 15 May 2007 the applicants appealed against the refusal of the RLCC to provide the information the applicants requested in terms of section 75 of the Promotion of Access to Information Act. The RLCC has consistent with its historical conduct, not yet replied to the applicants' Notice of Appeal and has not furnished the information set out in the applicants' request for information. It was again simply ignored.
- 15.22. Notwithstanding the applicants' repeated requests for information (which would have properly informed the applicants of the validity of the land claims) and requests for a negotiated settlement of the land claims, mediation and dialogue with the land

claimants, the RLCC issued a certificate in terms of section 14(1)(b) of the Restitution Act whereby he certified that:

*"..... It is not feasible to resolve the dispute between the claimants and the current land owners regarding the validity of [...] the lands or farms generally known as the Nkomazi Wilderness".*

15.23. In the certificate the RLCC named 23 farms and stated that it generally comprises Nkomazi. Of these 23 farms only 8 of the farms or portions of these farms comprise Nkomazi. These farms are Boekenhoutrand 722 JT, Doyershoek 702 JT, Nkomazi 757 JT, Sterkspruit 709 JT, Stolzburg 710 JT, Theeboom 729 JT and Vergelegen 728 JT. The remaining 16 farms do not form part of Nkomazi.

15.24. The referral covers a massive area of approximately 70,000 ha. It includes the towns of Tjakastad, Elukwatini and land occupied by hundreds of thousands of people. It is not clear:

10.1.1. What these claims have in common (not even tribal and clan affiliations).

There is no indication of the numbers or the identities of the members of the various so-called "claimant groups" much less the identities of the persons who were being deprived of their land. Terms like "tribe", "community" and "family" are used interchangeably.

10.1.2. No distinction is drawn between claimants who claim to have been deprived of their rights as labour tenants and tribes or communities or clans or individuals that had been allegedly deprived of their indigenous title.

10.1.3. There is no clear indication when the alleged land deprivation took place and most of the claims are mutually destructive and contradictory.

- 10.1.4. In some documents the farms that were gazetted were consolidated under the so-called "Ndwandwa claim".
- 10.1.5. As already stated, the project manager testified under oath that no verification exercise has been done to identify the individuals forming part of the claimant groups.
- 10.1.6. The entire process is a monumental mess with serious irregularities.
- 10.2. The historical correspondence shows that Spoor wrote many letters to request information, mediation and an opportunity to resolve the land claims.
- 10.3. One can be forgiven for suggesting that the only logical reason for the RLCC refusing to co-operated, supply information, and condoning the violence, is because they were aware that the land claims were fake, since they had been instructed to drive me out of the area.
- 10.4. By March 2008, the RLCC had his back up against the wall when it faced an application under the information act to supply information.
- 10.5. On 28 March 2008 the RLCC decided rather than disclosing this information and be exposed / embarrassed, they could kick for touch by pulling a trick to refer the land claim to the Land Claims Court. The effect was that by referring the matter to the Land Claims Court, they could side - step the application for information brought by Spoor.
- 10.6. This abuse of the court process has also brought them time, by effectively parking the land claim in the Land Claims Court, without any intention of ever adjudicating it. It has

also spared them the embarrassment of having to provide the merits of a claim that was never researched, as testified by the project manager.

10.7. For more than ten years now, the matter has laid idle.

#### **PAINTED THEMSELVES IN A CORNER**

#### **11.**

11.1. Yet, after the referral, the RLCC found that this did not solve the problem, but had in fact made it worse. They had created huge expectations from poor people and in effect, I was still on the properties and they had, in effect, they had painted themselves into a tight corner, all because:

11.1.1. No research had been done since the all important land claim verification process had been deliberately circumvented;

11.1.2. The matter was therefore not ripe for trial;

11.1.3. Pressure mounted from Spoor as well as from the Land Claimants because the respondent had made irresponsible promises that created unreasonable expectations for the poorest of poor.

11.1.4. The referral also turned out premature and embarrassing for the above reasons.

- 11.2. The abuse of the process and the lack of information seem to go to the heart of the reason why the RLCC had ducked and dived for all these years to ignore and stone wall Spoor. It was all aimed at ensuring that the RLCC did not have to disclose the embarrassing details of the claims to Spoor.
- 11.3. In addition, his knowledge of all these irregularities, and the fact that the land claims were fraudulent, surely motivated the RLCC to avoid mediation, and ignored all our letters.
- 11.4. It did not seem to worry the respondent, the RLCC or the MTPA that the fraud, corruption and mismanagement of the Land Claims issues were ripping the GNRV apart.
- 11.5. The then RLCC Lucas Mufamadi and the respondent has some serious explaining to do. They who inhabit the corridors of power hold it in their hands to resolve the issues, if they wish but seem to be part of the problem.

#### **TAKING THE LAW INTO THEIR OWN HANDS: Steps to force me out of the GNRV**

### **12.**

- 12.1. In short, to avoid having to disclose the information we were reasonably entitled too, and now having the dreadful prospect of having to adjudicate a fraudulent land claim and process, all that was left for the respondent, the RLCC and the MTPA to do was to step up the process of forcing me out of the GNRV.

#### **RESPONDENTS HAND IN THE VIOLENCE**

13.

13.1. During the start of 2008, I began getting warning from MTPA staff that I must be careful because Muller and his wildlife staff were boasting that they will "get me".

13.2. During this time, Andre Pienaar (one of my game suppliers) informed me that some of his clients, who are game farmers in the Ermelo district have been told by the regional staff of the MTPA that they were *"going to sink my project, and Fred Daniel was in deep trouble"*.

Oral evidence in this regard will be led during the hearing of the matter.

13.3. On 17 March 2008, Dr Koos De Wet, a senior terrestrial science of the MTPA, in charge of eco-systems from their Lydenburg office, advised me out of the blue that has been instructed by his supervisor, Mr. Charles Ngobeni from Head office that on demand Jan Muller:

*"Ons mag geen kontak met jou maak oor enige aspek van ons werk nie..."*

13.4. On 31 March 2008, Jan Coetzer of the MTPA regional offices stationed at Ermelo office, phoned Frans Rademeyer of Cradle of Life to inform him that he had instructions that our exemption certificate (which was still valid until 2009) had been cancelled and must be withdrawn with immediate effect.

13.5. According to Livion Khumalo explained how several municipality employees, including Supply Chain Manager, Bongani Mwale and Ed Nkosi were using their positions to

derail the Cradle of Life investment. When he supported the Cradle of Life project, his house was set on fire.

#### **RESPONDENT ELECTS AND CHAIRS A COMMITTEE**

14.

14.1. On 28 July 2008, John Alan and I were informed that a new committee had been elected to deal with the land claims, which was chaired by the respondent, whilst being the MEC for Agriculture and Land Development.

14.2. On 29 July 2008, John Allen of Cradle of Life received an e-mail from the ANC Councillor confirming the above in writing:

*"A new committee was elected yesterday which is headed by the Honourable MEC for Land & Agric. The requested meeting will be decided by the committee."*

14.3. The Committee and the RLCC immediately started to mislead the community by saying that once the claim has been gazetted, it means the land is theirs and the process is finalised. They then said that they were being denied access to the land.

14.4. Having a land claim gazetted does not mean the process is finalised. The feeling was that to incite people to violence because a claim has been gazetted is highly irresponsible and borders on the criminal.

#### **RENT A CROWD GOES ON THE RAMPAGE**

15.

- 15.1. On 1 August 2008, a group of protesters bussed in from another area, staged a violent protest at the cross section at the entrance of Cradle of Life Travelport and Bio Park.
- 15.2. They were led by the ANC Councillor, Pro Khosa, who admitted taking instructions from the respondent.
- 15.3. The police were specifically instructed to leave Badplaas during the morning of the violence and go out of the area. In addition, they were told not to get involved as it was a political matter. To ensure that I was totally isolated, only one policeman was left on duty at the Badplaas police station.
- 15.4. In the morning, the protestors started gathering at the T- junction at the entrance of the Cradle of Life Travelport and Bio Park.
- 15.5. From about 08h00, on the Saturday morning, the rent a crowd proceeded to barricade the national road and stopped all the traffic. They created havoc during their illegal march and rioting, burning tyres and wood and placing rocks in the road.



- 15.6. Mr. John Allen tried to speak to the people when he was assaulted by members of the crowd who also stole his camera. He was hit, punched and kicked by the rioters even as he tried to flee.

Oral evidence in this regard will be led at the hearing of this matter.



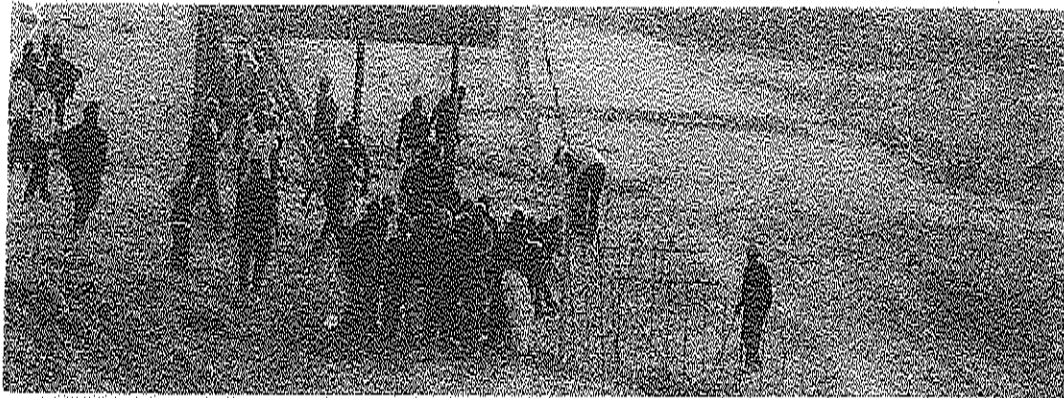


15.7. One of the leaders shouted:

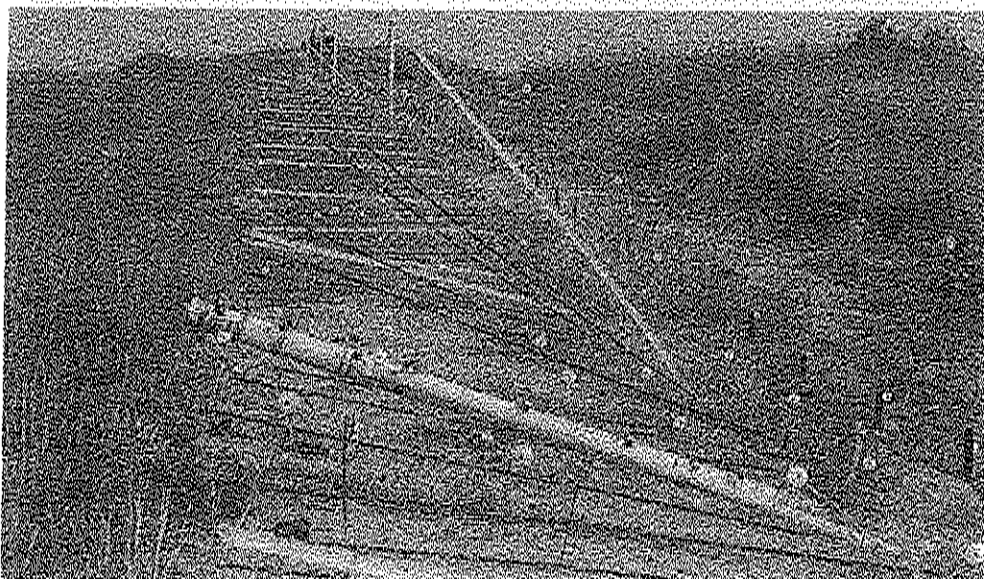
*"We are prepared to die for our cause, the time for talking is over and now it is time for war!"*

15.8. Forensic investigators would later discover that the protestors had in fact been paid to stage the violent rent a mob attack on my business. They also determined that the protestors were not local land claimants but were bussed in from another region, given free brandy and dagga at a local pub the night before.

15.9. The protestors then started climbing on the Cradle of Life game fence and in front of all, started pulling down kilometres of fencing.



15.10. The protestors made a point to tear down a few kilometres of fencing and using parts of it to fortify the blockage.



Pictures showing the damage to the Cradle of Life fences.

4

15.11. The riot resulted in a blockade that halted all traffic flow for nearly four hours. Tourists had also become victims of the violence. Some cars had their windows broken.



15.12. They then proceeded towards the petrol station to burn it down and indicated that they wanted to carry out a citizen's arrest upon me.

15.13. By that time the local commando and Security Company had arrived to protect Cradle of Life, in the absence of the police. It was only the local commando and the security guard that stood between the rioters and the bombing the petrol station.

15.14. The conduct of the RLCC also supports this view namely that:

15.14.1. the RLCC runs to court for an order to have me arrested on spurious grounds (as attempted in the second application), without even having the decency of following the instructions of the court;

- 15.14.2. the consistent refusal by the RLCC to disclose the merits of the land claims over almost a decade;
- 15.14.3. the refusal to refer the matter for mediation;
- 15.14.4. the refusal to disclose the beneficiaries, and the land claims;
- 15.14.5. the RLCC'S failure to answer 95% of all correspondence, and
- 15.14.6. the RLCC's preference to rather to side with criminals who are prepared to defraud the taxpayer and government. .
- 15.14.7. Both the respondent and the RLCC have supported and condoned the mindless violence, especially under the circumstances as set out in the historical correspondence above.
- 15.14.8. What is also disturbing is that Visagie was also at the riot and could not but show his delight. He told eye witnesses that the respondent and him are at last teaching me a lesson I would not forget.
- 15.14.9. Oral evidence in this regard will be available at the hearing of the matter.

15.15. A contingent of police arrived around 12pm, roughly hours since the road siege began.

15.16. On the 31 August 2008 the Guardian sent an e-mail to Lucas Mufamadi with questions regarding the Badplaas land claims and violence.

15.17. Mufamadi of the RLCC responded that:

*"Unfortunately the court will make the final determination".*

*"In order to deal with the challenges we decided to involve the MEC for agriculture and other local politicians to assist communities in understanding the challenges that we are faced with".*

A copy of this letter can be made available to the respondents on request.

#### **RESPONDENTS ROLE IN THE VIOLENCE**

16.

16.1. What is clear from the above is that despite the fact that land claims were not the respondent's portfolio, he was invited to become involved. The fact that the land claim was before the court was ignored and violence was the preferred way to deal with it. The respondent became deeply involved by setting up a committee and chairing it. He incited the community and condoned the violence.

16.2. It was no surprise that near the end of the riot, the respondent as MEC for Agriculture and Land Affairs at the time, and also Chairman of the ANC and the GBLCC, arrived at the scene to praise the rioters.

16.3. It was also not a co-incidence that the two extra-ordinary demands made by the rioters was the immediate:

16.3.1. Intervention of the provincial government to halt the Cradle of Life development;

16.3.2. Removal of Fred Daniel from the area.

- 16.4. In a loudspeaker on the back of a bakkie, the respondent was "inciteful" (and knowing the matter was referred to the Land Claims Court) took the law into his own hands and told the crowd that: *"he would ensure that the people will get their land back"*.
- 16.5. The respondent then told the crowd that they had rioted enough and must go home, which they dutifully did. The blockade was then removed.

#### **URGENT HIGH COURT INTERDICT**

17.

- 17.1. On the 06 August 2008, an urgent High Court interdict was filed to stop the violence, destruction of fences, death threats, intimidation and harassment.
- 17.2. The Greater Badplaas Land Claims Committee and several community members Pro Khosa, Minah Matsebula, M.J. Nkosi, Bongani Mwali and Fannie Malaza - as well as the RLCC, Lucas Mufamadi were ordered by the Gauteng High Court to stop breaking the law.
- 17.3. According to the court order, the GBLCC and the community members were forbidden from engaging in unlawful activities targeting the complainants, either in person or through any individual group acting under the direction or supervision, in particular - damaging or threatening to damage property, threatening, intimidating, or harming any

officer or employee of the properties and inciting or encouraging any person to engage in any of the unlawful acts as prescribed by the court.

17.4. On the 12 September 2008, it was necessary to bring a joinder and interdict more people who were still cutting fences.

17.5. Copies of the court orders can be made available on request.

**PERJURY:**

18.

18.1. In the respondents affidavit in the High Court disposed of under oath on the 25 March 2011, in paragraph 13, page 9, paginated page 1964 he confirms correctly that:

*"His main concern centres around "land claims issues".*

18.2. The respondent then commits perjury when he states:

*"That issue was fully investigated and reported on. It was also fully ventilated in the Land Claims Court.*

18.3. There was never such a process and I challenge the respondent to provide this court with copies of the investigations and reports he refers too, as well as the court record and judgement he refers too that have settled the claims.

18.4. This statements of land claims officials as set out above, and the pending land claims that have not been adjudicated for more than 10 years, forms part of a large body of evidence that shows that the respondent is still busy covering up the facts and is even prepared to commit perjury to do so.

18.5. The following list of court cases regarding the Badplaas land claims is still outstanding:

- 18.5.1. Case Number 33/2007 in the Land Claims Court.
- 18.5.2. Case No.: LCC 35/2007 in the Land Claims Court.
- 18.5.3. Case No.: 41907/2007 in the North Gauteng High Court.
- 18.5.4. Case No.: LCC 60/2012 in the Land Claims Court.

18.6. In fact, the opposite of what the respondent has stated under oath is true. The above land claims remain unresolved and form a massive mess.

**Case Number 33/2007**

19. This case was unlawfully referred to the Land Claims Court in 2007 before it was ready. It was done for the sole purpose of avoiding supplying information as requested under the Information Act. The matter has remained there ever since, with no attempt from the Mpumalanga authorities to have it adjudicated.

Oral evidence in this regard will be provided on the date of the hearing.

**Case Number 35/2007**

20. This case has also not been finalised because Ms Tumi Seboka, the then Regional Land Claims Commissioner Mpumalanga, in collusion with IFASA interfered with the judge.

Oral evidence in this regard will be provided on the date of the hearing.

**Case No.: 41907/2007**

21. The Honourable Justice Bertelsman found that the Ndwandwa Trust had indeed been hijacked. As a result, he ruled that the putative trustees be replaced by the original trustees. This shows the extent of the state capture of the RLCC.

Case No.: LCC 60/2012

22. In this judgement the court ruled that the consolidation of 6 communities and the transfer of the land into the Ndwandwa Trust were unlawful. The matter remains unresolved and pending.

A copy of this e-mail from the Guardian is annexed hereto, marked "FD11".

#### **MESS**

#### **23.**

- 23.1. As would be expected, the mess has been allowed to just get bigger and has also resulted in competing land claims such as the case of Ida 144 IT claimed by Mdumane community (KRP 4134) and Nkosi family (KRP 9619).

- 23.2. A number of independent forensic reports were commissioned, all being damning. But they have all been swept under the carpet and no action has been taken to recover the stolen money or to prosecute those implicated.

- 23.3. In addition, the mess has been widely reported in the press:

- 23.3.1. 14-08-2012    **Lowvelder:** Five Accused of R 2.5 Billion Scam
- 23.3.2. 02-08-2015    **The Sunday Independent:** Probe puts politician in the spotlight;  
Forensic probe into land claim deals puts politicians in the  
spotlight Mabuza named in probe into inflated land claims prices
- 23.3.3. 13-12-2015    **City Press:** R 3, 3 haunts Premier Mabuza.
- 23.3.4. 18-12-2015    **Lowvelder:** EFF opens case of fraud against David Mabuza
- 23.3.5. 17-01-2016    **City Press:** Court takes back the land;
- 23.3.6. 31-10-2016    **City Press:** Land reform farms prices inflated.

23.3.7. 01-11-01 City Press: State pleads ignorance over probe into multimillion-rand land claim 'scam'

Copies of these articles are annexed hereto, marked "FD11 a) to g)".

24. As can be seen from the above news, the statement that the land claims are sorted out is a blatant lie. This misrepresentation is also not innocent, but calculated to mislead the court and to perpetuate the ongoing cover up of this immense fraud and corruption that lies at the heart of this dispute.

25. The respondent has always denied that the land claims were his responsibility yet he admits in paragraph 20.4, paginated page 1970, page 15:

*"I recall that during 2008 I was made aware of a gathering of concerned citizens at the Badplaas road-crossing. I then took it upon myself to go there in order to defuse the situation."*

26. The premier does not mention that he was invited by the RLCC to intervene long before that date as the RLCC did not want a legal solution but to drive me out of the area.

27. He also fails to mention his role in setting up the committee, acting as its chairman, threatening me telephonically, the death threats, and the violence that followed, just to mention a few incidents.

Oral evidence will also be available at the hearing of the matter.

28. In a sworn affidavit one Nico Van Schalkwyk testifies that:

28.1. Paragraph 3: *"The person in charge of permits at the Mpumalanga Tourism and Parks Board was the senior manager, Mr. Jan Muller, who resided in the same complex as me, at the Kiaat Security Estate".*

28.2. Paragraph 4: "...I was able to facilitate a meeting with the new Nkomazi Management and Muller, but only after Jan Muller made it clear that he would only entertain such a meeting if I could promise that Daniel would not be present at the meeting, and that Daniel was definitely out the picture. He refused to meet unless I was able to give a firm undertaking". [My underlining]

28.3. Paragraph 4: "On one occasion there was a meeting in White River ... James Wilson made it clear that he expected steps to be taken to get rid of Daniel from the Nkomazi Reserve altogether." [My underlining].

29. Oral evidence will be led in Carolina Court which will show that MTPA senior management were behind promoting of false land claims and to protect themselves were involved in the incitement of land claimants to cut game fences and attempt to drive me out of Badplaas altogether. At present the names of these witnesses are sensitive for fear of intimidation.

#### FURTHER UNLAWFUL ACTS OF VIOLENCE CONDONED BY RESPONDENT:

19.

19.1. During the period 29 June 2008 to 23 August 2008 the fourth and fifth applicants suffered a spate of violence and damage to its property. This violence was also extended to me, my staff and members of the Badplaas police.

Further acts of violence are set out and annexed hereto, marked "FD12".

#### THE RESPONDENT:

42.

- 42.1. The events that are described above clearly indicate that the respondent has misused his position of authority as the former MEC of Agriculture, and now as Premier of the province, to harm me and the project. The respondent has done so by deploying and mobilising the State Machinery members of the public, and members of the ruling ANC against me and the project.
- 42.2. There is a duty on the respondent to act lawfully in respect of me and the applicants.
- 42.3. In terms of the provisions of s 133(3)(a) of the Constitution of the Republic of South Africa, 1996 ("the Constitution"), the respondent, who is a Member of the Executive Council in terms of the provisions of s 132(1) of the Constitution, must act in accordance with the Constitution.
- 42.4. In terms of the provisions of s 136(1) the respondent, as a member of the Executive Council must act in accordance with a code of ethics prescribed by the Executive Members' Ethics Act, Act 82 of 1998 ("the Ethics Act").
- 42.5. In terms of the provisions of s 2(1) of the Ethics Act, the President must publish a code of ethics prescribing standards and rules aimed at promoting open, democratic and accountable government and with which Cabinet members, Deputy Ministers and MECs must comply in performing their official responsibilities.
- 42.6. The Code of Ethics was published on 20 July 2000 in Government Gazette No. 21399 by the Acting President.

42.7. Regulation 2 of the Code of Ethics prescribes general standards to which the respondent must comply.

42.8. Regulation 2.1 provides *inter alia* as follows:

*"Members of the Executive must, to the satisfaction of the President or the Premier, as the case may be—*

- (a) perform their duties and exercise their powers diligently and honestly;*
- (b) fulfil all the obligations imposed upon them by the Constitution and law; and*
- (c) act in good faith and in the best interest of good governance; and*
- (d) act in all respects in a manner that is consistent with the integrity of their office or the government."*

42.9. Regulation 2.2 provides as follows:

*"In deciding whether members of the Executive complied with the provisions of clause 2.1, the President or Premier, as the case may be, must take into account the promotion of an open, democratic and accountable government."*

42.10. Regulation 2.3 provides *inter alia* as follows:

*"Members of the Executive may not—*

(a) .....

(b) .....

(c) *act in a way that is inconsistent with their position;*

(d) *use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person;*

(e) *use information received in confidence in the course of their duties otherwise than in connection with the discharge of their duties;*

(f) *expose themselves to any situation involving the risk of a conflict between their official responsibilities and their private interests;"*

42.11. In terms of the provisions of s 195 of the Constitution there are basic values and principles governing the public administration which are enshrined in the Constitution.

42.12. In terms of the provisions of section 195(1) of the Constitution, the basic values and principles governing public administration includes *inter alia* the following:

42.12.1. The promotion and maintenance of a high standards of professional ethics;

42.12.2. the promotion of the efficient, economic and effective use of resources;

42.12.3. the provision of services which are impartial, fair, equitable and without bias;

42.12.4. the fostering of transparency through the provision of timely, assessable and accurate information.

42.13. In terms of the provisions of s 195(2), the principles referred to above apply to the administration in every sphere of government, organs of state and public enterprises.

42.14. I also refer the above honourable court to the Code of Conduct for members of the Mpumalanga Provincial Legislature in respect of which the principles and general obligations, sections 3 and 4 thereof read as follows:

*"3. Principles*

*A member shall adhere to the following principles:*

*(1) Faithfulness*

*A Member shall be faithful to, and uphold the principles of the Constitution and act within the parameters set by the Constitution.*

*(2) Selflessness*

*A Member shall take decisions only in the interest of the public and subsume personal interest to public interest.*

*(3) Integrity*

*A Member shall at all times maintain and strengthen the integrity of the Legislature and the Provincial Government, and refrain from any act or omission which would bring the Legislature and provincial government into disrepute.*

(4) *Openness*

*A Member shall exercise his or her public duties in an open and transparent manner.*

(5) *Honesty*

*A Member shall act honestly and in the public interest at all times.*

(6) *Leadership*

*A Member shall promote these principles by leadership and example.*

4. *General Obligations*

*A Member shall, at all times, in the exercise of his or her duties adhere to the principles as set out in Part I of the Code and shall, inter alia-*

(1) *Not take decisions in order to gain financial or other material benefit for himself or herself, his or her family, or his or her friends;*

(2) *Not use information received in confidence in the course of his or her duties otherwise than in connection with the discharge of his or her duties;*

(3) *Not make improper use of any allowance or payment properly made to him or her, or disregard the administrative rules which apply to such allowance or payments;*

- (4) *Exercise his or her duties and conduct himself or herself with dignity and integrity appropriate for his or her office;*
- (5) *Not place himself or herself under financial or other obligations to outside individuals or organisations that might improperly influence him or her in the performance of his or her duties;*
- (6) *Ensure that his or her personal conduct is consistent with the dignity and integrity of the Legislature and the provincial government;*
- (7) *Make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;*
- (8) *Declare any private interest relating to his or her official duties;*
- (9) *Declare, in the Register all the interests as required by this Code;*  
*and*
- (10) *Take steps to resolve any conflict of interest that may arise in a manner that protects the public interest."*

The respondent has failed in these duties as set out above as follows:

20.

- 20.1. The respondent has failed to see to it that the different Mpumalanga departments that have participated in the harassment comply with their statutory obligations as set out hereunder in respect of those respondents. He has therefore been the cause of the breach of constitutional rights of the applicants including breach of sections 22, 24 and 33 of the Constitution.
- 20.2. The respondent has been acting as the chairman of the land claimants committee in the land claims whereas as Premier and previously MEC he could not and should not have done so;
- 20.3. The respondent has failed to see to it that the provincial legislature provide for mechanisms to ensure that all provincial executive organs of state in the province are accountable to it and to maintain oversight of the exercise of provincial executive authority in the province including the implementation of legislation by any provincial organ of state, as provided for in section 114 of the Constitution;

EFFECT OF UNLAWFUL CONDUCT OF THE RESPONDENTS ON THE APPLICANTS:

21.

- 21.1. The conduct of the respondent has exposed the applicants to serious financial harm in that investors in the project became hesitant and unwilling to invest when the applicants disclosed, as we were obliged to do, the difficulties and disputes which we have had with the respondent and his provincial administration. Investors are not eager to expose their investment capital to a project that stands the risk of being closed by the authorities.

- 21.2. The conduct of the respondent has had a negative impact on the applicants' staff and on the contactors that are involved in the project.
- 21.3. The conduct of the respondents disrupted the project. The project makes use of unskilled labour from the area. This labour is cannot be left unattended and requires permanent supervision. Much of the supervision is done by me and my managers at Travelport. Each time the official departments' officials visit the site either myself or my managers are occupied by these officials, sometimes for hours.
- 21.4. The conduct of the respondents has prejudiced the applicants' BEE relationships through threats and victimisation.
- 21.5. The unreasonable requirements of the respondents created the necessity to employ experts in order to compile expert reports. This is costly and threatens the financial viability of the project.
- 21.6. Apart from the foregoing the actions, the respondents have prejudiced the development of the Trans Frontier Park, it has prejudiced the application of Nkomazi and Travelport to become part of a world heritage site, it has prejudiced the Nkomazi Reserve, and has prejudiced relations with Swaziland. It has furthermore contributed to the project not being where it should have been, and it has contributed to a frustration and slowing down of the whole project.
- 21.7. It has further contributed to strained relations between the applicants and the respondents, whereas the applicants are big commercial investors in the area. That is

not conducive to good government. Applicant's constitutional rights and other rights have been breached with impunity by respondents.

- 21.8. Another phase in this attack was the criminal proceedings brought by the tenth respondent in conjunction with the South African Police Services, execution of warrants on an unlawful basis, removal of animals without any authority, and in general through unlawful intimidatory and threatening practices towards the applicants and my businesses.
- 21.9. Steps were taken to exclude the applicants from the Trans Frontier Park negotiations and the developments in respect thereof, to scupper the application of Nkomazi and Travelport to become a world heritage site, and to exclude the applicants from the general business and other communities in Badplaas, by the vilifying and defaming of applicants and me, and the spreading of lies in respect of applicants and myself.
- 21.10. Another phase of this orchestrated attack, commenced, probably out of frustration, when the Badplaas Land Claims Committee, headed, influenced, and supported by the respondent, commenced with violent attacks on the fences of properties of the applicants, attacks and intimidation of employees and associates of the applicants, the arranging of marches and gatherings, and uttering of threats of intimidation and death towards myself, my family and my employees as well as those of the applicants.

## CONCLUSION

- 22.1. This application describes how the respondent and those employed in his provincial administration, over a period of many years, through the illegal abuse of public power exercised in bad faith, with malice, recklessly and intentionally as a conspiracy were perpetrated against the applicants, on an ongoing basis, with a view to remove the applicants and its investments from the Badplaas area, so as to enable the claimants to obtain the land they claimed on the basis of land claims with no merit, through the land claims process, with no opposition, despite the land claims having no merit and being opposed.
- 22.2. This application deals with one of the most important issues of concern regarding government action today, and the frequency with which government and its employees are acting in bad faith, with malice and with the use and abuse of state machinery, to subject, pressurise, prejudice and intimidate any opponents of the government and the ruling party, with a view to imposing policies and advancing certain interest groups and their interests. No opposition is tolerated, and any opposition is met with the employment of state machinery against private citizens and investors to the extent seen in this application.
- 22.3. It has become more and more necessary for courts to come to the assistance of private individuals and business entities who are being subjected to bad faith, malicious and unlawful use of state machinery and misuse of powers, to prejudice private initiatives for purposes not allowed or authorised in legislation through unlawful use of the statutory powers of such government institutions and entities.
- 22.4. The conspiracy exposed in the application and the frequent abuse of state powers against the applicants, have led to a situation where the applicants were forced to approach the above Honourable Court for assistance on a number of occasions, to

prohibit and stop the respondent's administration from continuing to harass, intimidate and prejudice the applicants.

- 22.5. The history of this matter is of such a nature, and the ongoing risk is continuous, that the court is requested to grant relief which would protect the applicants against future bad faith, malicious and intentional actions of the respondent and the relevant government departments he controls, exercised with a view to harass, intimidate and prejudice the applicants.
- 22.6. Further oral evidence, forensic reports and other documentation will be presented to prove that the complainants have been subjected to sustained campaign of intimidation and harassment against a backdrop of fraud, corruption and state capture over a period of more than 12 years.
- 22.7. The historical conspiracy led by the respondent and his accomplices have been aimed to cover up large scale corruption and to extract retribution against me, for exposing their corruption, refusing to pay bribes and wanting to protect and operate my project lawfully.
- 22.8. These compromised, corrupt officials have become captured, compromised and disfunctional, and whose toes I have to step on so they act lawfully, have been part of an extensive dirty tricks campaign that over the years involves death threats, harassment, victimization, abuse of power, abuse of institutions, abuse of their legislative authority, abuse of their administrative duties and who are so captured and compromised that they can longer perform their duties without fear or favour.

- 22.9. It has now become clear from what Muller has confessed and the pattern of harassment over the years, that the employers could not have acted on their own, and have been doing the bidding of those who capture the second respondents and its staff in positions of authority and power far beyond Muller.
- 22.10. It is a known fact that those who report wrongdoings are often subject to retaliation and revenge.
- 22.11. The risks and costs of whistleblowing are reflected in the whistleblowers cross which shows the effect on careers, ostracism, loss of opportunities and threat to their security.
- 22.12. Experts agree that retaliation against whistleblowers typically occurs when organisations have something to hide; when allegations are serious, and / or when dire consequences exist for the organisation or state official as a whole.
- 22.13. I will be leading oral evidence to show how harassment is linked to the corruption complained of and is linked to environmental crimes which MTPA officials turn a blind eye to.

#### **SUBMISSIONS**

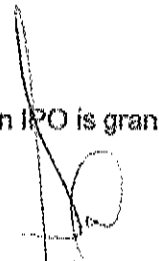
23.

- 23.1. In the light of the evidence I have given, I submit that a proper case has been made out for an IPO against the respondent.

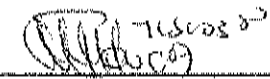
23.2. In closing, I request that the above honourable Court directs that oral evidence be heard at the hearing to be made by the respective witnesses in this application and to ensure the relevant witnesses attend the court hearing.

WHEREFORE I PRAY:

23.3. That the relief sought by the complaints against the respondents for an IPO is granted.

  
\_\_\_\_\_  
DEPONENT

THUS SWORN TO AND SIGNED BEFORE ME AT BADPLAAS ON THIS, THE 29 DAY OF JANUARY 2018, THE DEPONENT HAVING ACKNOWLEDGED THAT HE UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, AND THAT THE CONTENTS THEREOF ARE TRUE, THAT HE HAS NO OBJECTION TO THE TAKING OF THE OATH AND THAT HE CONSIDERS THIS OATH TO BE BINDING ON HIS CONSCIENCE.

  
\_\_\_\_\_  
COMMISSIONER OF OATHS

FULL NAME: MORWAU THABILE

CAPACITY: Constable

22 VOOFFELLOE

