

ms Stuurman:

"A"

(charge sheets)
(Annexure "A")



**MAGISTRATES
COMMISSION**

REPUBLIC OF SOUTH AFRICA

**LANDDROSTE-
KOMMISSIE**

P O BOX 9096, PRETORIA, 0001

(012) 325 3951

FAX (012) 326 0094

CONFIDENTIAL

Reference: 6/5/5/2 (15/2012)

Enquiries: Mrs. G. J. Pretorius

Date: 12 July 2013

Ms X. B. Stuurman
c/o The Magistrate
Private Bag X 9010
EAST LONDON
5200

Dear Ms Stuurman

**CHARGE OF MISCONDUCT: MAGISTRATE X. B. STUURMAN, ADDITIONAL
MAGISTRATE, PERSAL NUMBER 16848381**

You, **Xoliswa Stuurman**, at all relevant times a magistrate duly appointed in terms of section 10 of the Magistrates Act, No. 90 of 1993 (the Act) read with section 9 of the Magistrates' Courts Act, No. 32 of 1944 and the Judicial Matters Amendment Act, No. 85 of 1995, as amended in respect of whom the Magistrates Commission, instituted in terms of the Act, has jurisdiction, are charged with the following charges of misconduct:

CHARGE 1

That you are guilty of contravening regulation 25(c) of the Regulations for Judicial Officers in Lower Courts, No. R.361 of 11 March 1994 (the Regulations) read with regulation 26(17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 4 and 16 of the Code of Conduct for Magistrates issued in terms of regulation 54A of the Regulations and contained in Schedule E to the Regulations (the Code of Conduct) as amended.

IN THAT on 20 January 2012 at 9h14 and at the East London Court House you issued and published an e-mail to **Mlimi Nolusu, Valerie Gqiba, Stephanus Stander, Khululekile Feliti, Burning Chipps and Anna Kritzinger**, wherein you insulted and belittled **Mlimi Nolusu**, who at the time was the supervisor of the civil clerks at East London Court House, by stating in the above mentioned e-mail the following:

- "Firstly I would like to thank you sincerely for affording me this opportunity,

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which I am of the opinion, is long overdue, to set the record straight about your seemingly `headless chicken` tactics in the workplace.”

- “In this e-mail, I am not going to deal with Ms Nhliziyo`s complaint whose contents I regard as cheap emotional garbage, as it has not been formally brought to me.”
- “...I am going to show you that, as a judicial officer, it is my duty to call anybody working in my section, or with the matters I am dealing with, into order, including Ms Nhliziyo, without your permission.”
- “After reading this e-mail, I hope you are going to get the message that you are called upon to stop running this institution like a shebeen where a shebeen patron would in a drunken stupor just stand up and address anyone who cared to listen in the shebeen and tell them about his grievance.”
- “May I remind you that I am a magistrate and I fall under the judiciary and my rank is not even equivalent to yours, let alone being `near equal` to yours, and you are just an administrative clerk – civil servant – albeit a glorified one by another name? Therefore, under no circumstances do you have authority to write an email of that nature about me?”
- “It is clear that you missed the basics in your formative years in this department. It is suggested before you involve my name in your baseless tirade again, please retrace your steps, go, and learn what is expected from you as a civil servant in the work place. There is no place for your emotional outbursts in this institution. Please keep your emotions to your family.”
- “Before I point certain work aspects to you, which are, clearly *alien* to you I would like to respond to the side issues, which you are basing your conclusions on.”
- “Without sounding arrogant, under no circumstances can you compare my intellectual ability as well as exceptional organisational skills to the destruction you have caused in the Civil Section.”
- “I will not allow you to drag my name in your mud of incompetence.”
- “That is why I had to issue the directives as I did (which I will continue to do) and sadly, there was no capable leader to show them the way.”

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- **“If my section is too hot for Ms Nhliziyo to handle, why don't you take her to your office & baby-sit her, as she will not get it from me?”**

You therefore acted without integrity and/or in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice and/or acted to the detriment of the discipline or the efficiency of the administration of justice or allied activities.

Hereto a copy of the e-mail and is marked [A].

CHARGE 2

That you are guilty of contravening regulation **25(c)** read with regulation 26(17) of the Regulations and section 16 of the Act and further read with **paragraphs 1, 4 and 16** of the **Code of Conduct** as amended.

Not put to Magistrate

IN THAT **during 2012 on various occasions** and at the **East London Court House** you acted without integrity and/or in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice and/or acted to the detriment of the discipline or the efficiency of the administration of justice or allied activities by **approaching the clerks in the civil section directly and shouting at them** instead of approaching their supervisor and thereby embarrassing their supervisor. Mr. Mlimi Nolusu.

Hereto copy of the statement and is marked [B] – page 1 at paragraph 4

CHARGE 3

That you are guilty of contravening regulation **25(c)** read with regulation 26(17) of the Regulations and section 16 of the Act and further read with **paragraphs 1, 4 and 16** of the **Code of Conduct** as amended.

IN THAT on **18/01/2012** and at the **East London Court House** you **shouted over the telephone** at **Nondumiso Nhliziyo, a clerk in the civil section**; you did not afford her the

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opportunity to explain herself and you insulted and belittled her by shouting and/or saying the following to Ms Nhliziyo:

- "... who told you to do the roll like this, its disgusting, unprofessional."
- "You do not know civil work, because you just started at the civil office and do not show this roll to the attorneys as it is a shame and you do not know anything."

You therefore acted without integrity and/or in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice and/or acted to the detriment of the discipline or the efficiency of the administration of justice and allied activities.

Hereto copy of the statement and e-mail and is marked [C].

CHARGE 4

That you are guilty of contravening regulation 25(c) of the Regulations read with regulation 26(17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 4 and 16 of the Code of Conduct as amended.

IN THAT on 14/02/2012 and at the East London Court House you acted without integrity and/or in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice and/or acted to the detriment of the discipline or the efficiency of the administration of justice or allied activities by issuing an e-mail on the said date at 10h01 to Mr. Stephanus Stander, the then acting Chief Magistrate, of which the tone thereof was disrespectful and abrupt by stating the following in the said e-mail: "Mr. Stander How many control officers have I got? If you were one you would know the reasons why that has not been done yet. In future I would request that you follow protocol."

Hereto copy of the statement and e-mail and is marked [D].

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CHARGE 5

That you are guilty of contravening regulation 25(c) read with regulation 26(17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 4 and 16 of the Code of Conduct as amended.

IN THAT on 14/02/2012 and at the East London Court House you acted without integrity and/or in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice and/or acted to the detriment of the discipline or the efficiency of the administration of justice or allied activities by **issuing and publishing an e-mail on the said date at 13h44 to Mr. Stephanus Stander, the then acting Chief Magistrate, and to Danie Schoeman, Thembelihle Nhlanzi, Wynand Breytenbach, Valerie Gqiba, Desire Nel** of which the tone thereof was disrespectful, insulting and unprofessional by stating the following in the said e-mail:

- **“It would be advisable that you remove yourself from this situation or scenario because of your propensity to be a stranger to the truth.”**
- **“As you know since 2006 (or so I thought), you have been involved in a crusade to destroy my career – but up to this stage you have failed.”**
- **This has nothing to do with you; Mr. Mdalane is handling this matter perfectly well.”**
- **“With your short-sightedness, you would not understand even if I explain to you what is happening.”**
- **“Haven’t you done enough damage with your damaging consistent unnecessary throwing of your weight around? As a judicial officer in a managerial position when are you going to stop depending on gossip to make work related decisions?”**
- **“Have you noticed that you are taking this ‘Acting Chief Magistracy’ thing too much as a result you are over-compensating?”**
- **“Or is that what you discuss in that tea room with your ‘crew’ when you are discussing magistrates whose guts you hate?”**
- **“May I remind you that I am a Magistrate independent from your control? Your**

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position in this institution does not indemnify you to be a gossipmonger. Your consideration that 'it (is your) duty to take steps in this matter' is misplaced."

- "You are lying through your teeth again!"
- "Where did you get those lies written in par (c) of your e-mail? Or did you manufacture the truth, for reasons only known to your self and your 'crew'? **WHEN ARE YOU GOING TO STOP? Aren't you tired of peddling a dead horse?"**
- "Whether you are Acting Chief Magistrate or not, please refrain from forcefully involving yourself in matters involving myself; where your involvement or communication with me is not required. I repeat, please follow protocol."

See the annexure marked [D]

CHARGE 6

That you are guilty of contravening regulation 25(c) read with regulation 26(17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 4 and 16 of the Code of Conduct as amended.

IN THAT on 14/02/2012 at East London Court House you acted without integrity and/or in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice and/or acted to the detriment of the discipline or the efficiency of the administration of justice or allied activities by **issuing and publishing an e-mail on the said date at 16h03 to Mr. Stephanus Stander, the then Acting Chief Magistrate, and to Danie Schoeman, Thembelihle Nhlanzi, Wynand Breytenbach, Valerie Gqiba, Desire Nel** of which the tone thereof was disrespectful, insulting and unprofessional by stating the following in the said e-mail:

- "Point of correction, if you want to come to my level, you have to go up in strides Sir, and not stoop down. You are the one who is making me to stoop down to your level – which is non-existent."
- "Mr. Stander, as a judicial officer, there is a certain level of intelligence which

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is expected from you. Such a statement, which is so shallow, would be expected from a lay person who does not know anything about the law or the courts. All what you are doing with such a naïve statement is proving what I have been telling all along. Have you ever heard of a player being chased whereas he doesn't have the ball? You are exactly doing that."

- "Stop dragging me down to your level of gossip mongering which you worship. You are requested to differentiate between the gossip mongering you are peddling in our office with your crew; and the real issues required from us by our work as judicial officers."
- "PLEASE! I beg you not to write me these e-mails again because the reader will not be able to differentiate who falls on which level in here. PLEASE!"
- "May I remind you that some of us have more important things to do and have to do the real hard work than writing inconsequential e-mails, knowing that we are going to make more money by given acting positions in a silver platter as someone knows up there?"

See the annexure marked [D]

CHARGE 7

That you are guilty of contravening regulation 25(d) read with regulation 26(17) of the Regulations and section 16 of the Act.

IN THAT 14/12/2011 and 15/12/2011 and at East London Court House you refused to accept a notice of motion (East London Own Haven and Noluthandu Dorothy Bakana [first respondent] and five other respondents) dated 14/12/2011 from Bax Kaplan Attorneys, the Sheriff of the Magistrates Court, East London and Mrs. D. Nel, the secretary of the Chief Magistrate, East London and further that you failed to adhere to the prayer in paragraph 2 of the said notice of motion and thereby carried out your duties in a negligent or indolent manner.

Hereto a copy of the notice of motion application and is marked [E]

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ALTERNATIVE TO CHARGE 7

That you are guilty of contravening regulation 25(c) read with regulation 26(17) of the Regulations and section 16 of the Act read with paragraphs 1, 3 and 16 of the Code of Conduct as amended.

IN THAT on the dates and at the place mentioned in charge 7 you **refused** to accept the above mentioned notice of motion and **failed** to adhere to the prayer in paragraph 2 of the said notice of motion and thereby you acted without integrity and/or did not execute your duties competently and/or acted to the detriment of the efficiency of the administration of justice.

You are **invited** in terms of regulation 26(5) of the Regulations to send or deliver a **written explanation** regarding the misconduct with which you are charged in order to establish **which allegations are admitted and which allegations are disputed** within **ten (10) days** after receiving this charge sheet. Such explanation is to be made to the Secretary, Magistrates Commission, Pretoria, by means of facsimile (012 – 326 0094) or alternatively by means of e-mail to gpretorius@justice.gov.za. Should you fail to reply within the stipulated period it will be deemed that you do not wish to submit any explanation.

GIVEN UNDER MY HAND AT PRETORIA THIS 7..... DAY OF 11..... 2013



M F LEGODI


CHAIRPERSON: MAGISTRATES COMMISSION

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I hereby acknowledge receipt of charge sheet on 15.11.2013

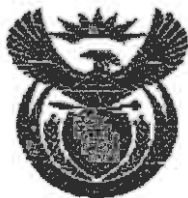
Full names and surname of the recipient: Xoliswa Beauty Stuurma



.....
SIGNATURE: MAGISTRATE

15-11-2013
.....
DATE

12(15)



**MAGISTRATES
COMMISSION**

**LANDDROSTE-
KOMMISSIE**

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Γ
Ms. X.B Stuurman
C/O The Chief Magistrate
Private Bag X 9010
EAST LONDON
5200
L

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Reference : 6/5/5/2 - 76/2013
Verwysing

Enquiries : Mrs. G.J Pretorius
Navrae

Date : 03 December 2014
Datum

7

Dear Ms X. B. Stuurman

**CHARGE OF MISCONDUCT: MAGISTRATE X B STUURMAN, EAST LONDON –
PERSAL NUMBER: 16848381**

You, **XOLISWA BEAUTY STUURMAN** at all relevant times a magistrate duly appointed in terms of section 10 of the Magistrate Act, No. 90 of 1993 (the Act) read with section 9 of the Magistrates' Courts Act, No. 32 of 1944 and the Judicial Matters Amendment Act, No. 85 of 1995, as amended in respect of whom the Magistrates Commission, instituted in terms of the Act, has jurisdiction, **are charged with the following charges of misconduct:**

CHARGE 1

ⓑ

THAT you are guilty of contravening regulation 25 (c) of the Regulations for Judicial Officers in the Lower Courts, No. R.361 of 11 March 1994 (**the Regulations**) read with regulation 26 (17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 4 and 16 of the **Code of Conduct** for Magistrates issued in terms Regulation 54 of the Regulations and contained in Schedule E to the Regulations (**the Code of Conduct**) as amended.

IN THAT on or about 15th February 2012 and at East London Court House, at approximately 8:20am, you uttered, inter alia, the following words in the presence of Senior Magistrate Stephanus Stander, Additional Magistrates Tyler, and others, of which the tone thereof was disrespectful, insulting and abrupt:

To Senior Magistrate Stander: I am not talking to you, the office does not belong to you. I am talking to people sitting here;

- To Additional Magistrate Tyler: I am not talking to you - shut up - I will deal with you later;
- To Senior Magistrate Stander: I have shown you on many occasions in the past and will show you again.

You thereby acted without integrity and/or in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice and/or acted to the detriment of the discipline or the efficiency of the administration of justice or allied activities.

[See Bundle A]

CHARGE 2 (9)

THAT you are guilty of contravening regulation 25 (c) read with regulation 26 (17) of the Regulations and section 16 of the Act and further read with paragraphs 1 and 4 of the Code of Conduct as amended.

IN THAT on or about 16 July 2012 and at East London Court House you published a letter dated 16 July 2012 by posting it on a wall in the East London Court House. This letter was in response to correspondence dated 29 June 2012 which you received from the then president of the East London and Mdantsane Attorneys Association, Mr Richard Jardine.

You thereby acted without integrity and in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice.

[See Bundle B]

CHARGE 2 (10)

THAT you are guilty of contravening regulation 25 (c) of the Regulations read with regulation 26 (17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 4 and 16 of the Code of Conduct as amended.

IN THAT on or about 12 February 2013 and at East London Court House you wrote a letter and addressed to Ms V.T. Gqiba, the Chief Magistrate, East London, of which the tone thereof was disrespectful, insulting and abrupt by stating inter alia the following:

- 'But, taking into account your vendetta against me, and the fact that you are never in this office and you do not know what is happening in our office workwise, and in those few days that you are here you are always out of this office as early as you possible can, I assumed that your decision was based on a lack of information and I took it upon myself to fill and make you up to date with what is happening in my office which would cause me not to come to work tomorrow:...'

- 'I am of the opinion that your decision was solely based on your vindictiveness and was tainted with your boundless and uncontrollable hatred for me. In the process, whilst pursuing your personal agendas you are sabotaging productivity in my court, thereby disadvantaging my employer and the masses of the people we are supposed to serve. The attorneys are writing letters asking when they can get their judgements, whilst you are busy making arm-chair decisions not based on the interest of the office.'

You thereby acted without integrity and/or in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice and/or acted to the detriment of the discipline or the efficiency of the administration of justice or allied activities

[See Bundle C]

CHARGE (11)

THAT you are guilty of contravening regulation 25 (c) read with regulation 26 (17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 3, 4 and 16 of the Code of Conduct as amended.

IN THAT on or about 26 April 2013 and at East London Court House you were the author of correspondence addressed to Mr Terrence Mathie, an attorney at law, of which the tone thereof was disrespectful, insulting and abrupt, inter alia that:

- 'By his actions, Mr Bell dragged my name and integrity in the mud. He gained preferential treatment by manipulation at the expense of the order and consistency in my court, as well as that of the attorneys who are sticking to the directives.'
- 'I take exception to Mr Bell's actions when it comes to lying about my name as well as creating disharmony in my court. In my court, the saying "all animals are equal, but some are more equal than the others" is not applicable. All attorneys are treated equally and anybody who threatens its equilibrium is not welcome.'

You thereby acted without integrity, objectivity, dignity, courtesy and self-control, and thus in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice, and to the detriment of the discipline or the efficiency of the administration of justice or allied activities.

[See Bundle D]

CHARGE (12)

THAT you are guilty of contravening regulation 25 (c) read with regulation 26 (17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 3, 4 and 16 of the Code of Conduct as amended.

IN THAT on or about 27 May 2013 and at East London Court House you were the author of correspondence addressed to Mr Terrence Mathie, an attorney at law, of which the tone thereof was disrespectful, insulting and abrupt, inter alia that:

- 'With all due respect, my complaint has got nothing to do with the answer in your letter.'
- 'Thirdly, you seem to be missing the point here, i.e. Mr Bell lying about a judicial officer, myself'.
- 'Lastly, your local chairman of the East London Attorneys Association has been involved in writing unfounded allegations about me, which I interpret as attempts to sabotage my office. I have referred his letters to the Cape Law Society. Please find out from him about the rest of the story in respect of his letter.'
- 'As courtesy, I was giving you an opportunity to deal with this matter as a Director in Mr Bell's office, but since you are unable to do so, I will have to refer the matter to the Cape Law Society.'
- 'May I remind you, as well as the local Chairman of the East London Attorneys Association that as a judicial officer, I am the driver of my court, and, as long as I am not breaking any Rules or law, it is my duty to stir it as I see proper and fit as a manager in my court. I am not going to allow people with ulterior motives to disturb the stability in my court. That means, I would do everything possible and I will use every avenue available to make sure that such people are dealt with accordingly.'

You thereby acted without integrity, objectivity, dignity, courtesy and self-control, and thus in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice, and to the detriment of the discipline or the efficiency of the administration of justice or allied activities.

[See Bundle E]

~~CHARGE 8~~ (13)

THAT you are guilty of contravening regulation 25 (c) read with regulation 26 (17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 2, 3 and 4 of the Code of Conduct as amended.

IN THAT on or about 12 September 2013 and at East London Court House you in open court stated to candidate attorney Matthew Bell, inter alia:

- That he is a liar;
- Accused him of lying to your colleagues about you;
- Requested Mr Bell to explain why he did not respond to the letter you wrote and addressed to his office;

- Informing Mr Bell that you are not having a discussion with him, but that you are "telling him";
- Accused Mr Bell of undermining you because you are black;
- Stating to Mr Bell that you did not get to where you are because you are black, but because you work hard;
- Stating to Mr Bell that it is because of people like him that there is discord in your court;

You thereby acted without integrity, objectivity, dignity, courtesy and self-control, and thus in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice.

[See Bundle F]

CHARGE 7

(14)

THAT you are guilty of contravening regulation 25 (c) read with regulation 26 (17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 2, 3 and 4 of the **Code of Conduct** as amended.

IN THAT on or about 17 October 2013 and at East London Court House and in open court you stated the following reasons inter alia for refusing to recuse yourself in civil case 18591/12 whereof the tone was disrespectful, insulting and abrupt:

- 'Mr Bell is making the application because he wants to make his forum shopping, where he takes his matters to the Magistrate of his choice permanent. That would be unfair to the other attorneys who have to follow the rules and regulations as well as the office practices which Mr Bell is refusing to follow';
- 'As it has become apparent to the court, based on many dealings with Mr Bell, he is a stranger to the truth and he is doing the same thing in respect of this matter';
- 'As indicated above, Mr Bell is very good at twisting things and is a stranger to the truth';
- 'The court is of the opinion that Mr Bell's application is based on opportunism to create forum shopping and legalise it in our office'.

You thereby acted without integrity, objectivity, dignity, courtesy and self-control, in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice, and failed to administer justice to all without fear, prejudice or favour.

[See Bundle G]

CHARGE # (15)

THAT you are guilty of contravening regulation 25 (c) read with regulation 26 (17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 3 and 4 of the **Code of Conduct** as amended.

IN THAT on or about 24 October 2013 and at East London Court House you were the author of an electronic mail in correspondence with Tanya Appelgryn and/or Niehaus Mc Mahon Attorneys of which the tone thereof was disrespectful and abrupt by stating the following inter alia:

- 'I will treat your e-mail as if it has not arrived and delete it.'

You thereby acted without integrity, objectivity, dignity, courtesy and self-control, and thus in a manner which does not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice.

[See Bundle H]

CHARGE # (16)

THAT you are guilty of misconduct of contravening regulation 25 (j) read with regulation 26 (17) of the Regulations and section 16 of the Act.

IN THAT on or about 12 February 2014 and at East London Court House you refused to execute a lawful order from Chief Magistrate Gqiba and / or Senior Magistrate Mdalane to attend a Default Judgement Meeting of the Civil Court at office number 40, by not attending the said scheduled meeting.

[See Bundle J]

CHARGE # (17)

THAT you are guilty of contravening regulation 25 (c) read with regulation 26 (17) of the Regulations and section 16 of the Act and further read with paragraph 9 of the **Code of Conduct** as amended.

IN THAT on or about 10 April 2014 and at East London Court House you published and distributed a document titled "*Spotlight Shines on EL Magistrate – Investigation could lead to impeachment*" – Your article dated 05 April 2014", at the Civil Section wherein you inter alia stated the following:

- 'Colleagues don't trust each other and are treating each other with suspicions as Mr Hartle's article is referring to anonymous sources in our office.'
- 'My colleagues and other people from outside East London are saying this is a plot by my white colleagues as well as white attorneys who hate my efficient (efficiency). The only thing Mr Hartle's flawed article has managed to do is to divide us more as a country on racial basis.'

- 'As a court reporter, Mr Hartle is well aware that Ms Gqiba is never in the office and she does not have intimate details of what is happening in our office.'
- 'As the head of the judiciary in our station, i.e. the Chief Magistrate, she was required to inform the media about the status quo in respect of that matter, but all she could do was to confirm what her junior, Senior Magistrate Stander was saying.'
- Even if I was being investigated by the Commission, it would not be the first time and it does not mean I am guilty of the allegations. Every time there are vacant Regional court posts advertised in the Department, Ms Gqiba requests the Magistrates Commission to investigate me on trumped up charges. I have been investigated three times by the Commission as a result of Ms Gqiba's actions. All three instances I was found not guilty. ...'

You thereby discussed, remarked and commented on matters pertaining to your profession with the media or in public in a manner which is detrimental to the image of the office of magistrate. [See Bundle K]

You are invited in terms of regulation 26 (5) of the Regulations to send or deliver a written explanation regarding the misconduct with which you are charged in order to establish which allegations are admitted and which allegations are disputed within ten (10) days after receiving this charge sheet. Such explanation is to be made to the Secretary, Magistrates Commission, Pretoria, by means of facsimile (012-326 0094) or alternatively by means of electronic mail to gpretorius@justice.gov.za. Should you fail to reply within the stipulated period it will be deemed that you do not wish to submit any explanation.

GIVEN UNDER MY HAND AT PRETORIA THIS 3rd DAY OF December 2014


M F LEGODI
 CHAIRPERSON: MAGISTRATES COMMISSION

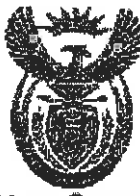
I hereby acknowledge receipt of charge sheet on

Full names and surname of the recipient

.....
 SIGNATURE: MAGISTRATE

DATE:

**MAGISTRATES
COMMISSION**



REPUBLIC OF SOUTH AFRICA

**LANDDROSTE-
KOMMISSIE**

P O BOX 9096, PRETORIA, 0001

TEL (012) 325 3951

FAX (012) 326 0094

CONFIDENTIAL

Reference: 6/5/5/2 – 102/2014

Enquiries: Mrs. G. J. Pretorius

Date: 3 December 2014

Ms X. B. Stuurman
C/O The Chief Magistrate
Private Bag X 9010
EAST LONDON
5200

Dear Ms Stuurman

**CHARGE OF MISCONDUCT: MAGISTRATE X. B. STUURMAN, EAST LONDON -
PERSONAL NUMBER 16 84 83 81**

You, **XOLISWA BEAUTY STUURMAN**, at all relevant times a magistrate duly appointed in terms of section 10 of the Magistrates Act, No. 90 of 1993 (**the Act**) read with section 9 of the Magistrates' Courts Act, No. 32 of 1944 and the Judicial Matters Amendment Act, No. 85 of 1995, as amended in respect of whom the Magistrates Commission, instituted in terms of the Act, has jurisdiction, are charged with the following charge of misconduct:

CHARGE

(18)

That you are guilty of contravening regulation 25(c) of Regulations for Judicial Officers in the Lower Courts, No. R. 361 of 11 March 1994 (**the Regulations**) read with regulation 26(17) of the Regulations and section 16 of the Act and further read with paragraphs 1, 4 and 16 of the **Code of Conduct** for Magistrates issued in terms of regulation 54A of the Regulations and contained in Schedule E to the Regulations (**the Code of Conduct**) as amended.

IN THAT on 13 May 2014 at the East London Court House you were discourteous and/or disrespectful to the Civil Clerk Nondomiso Sijindile Mdingi, by stating the following to her in a raised voice in the presence of staff members, attorneys and members of the public:

12 (23)

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2.

“You are an employee here; you are just a clerk and you will never be in a same level like me; you did not come with an office; when you came we were here and you will leave us here; the phone is not yours – it is for the office...you don’t have to answer the phone and don’t answer me when I talk...you are witchcraft...you are using medicine...you are a witch.”

You thereby acted without integrity and/or did not uphold and promote the good name, dignity and esteem of the office of magistrate and the administration of justice and/or acted to the detriment of the discipline or the efficiency of the administration of justice or allied activities.

ALTERNATIVE TO THE CHARGE:

THAT you are guilty of contravening regulation 25(c) of the Regulations read with regulation 26(17) of the Regulations and section 16 of the Act and further read with paragraph 3 of the Code of Conduct.

IN THAT on 13 May 2014 you failed to execute your official duties objectively, competently and with dignity, courtesy and self-control, by stating to the Civil Clerk Nondomiso Silindile Mdingi in a raised voice in the presence of staff members, attorneys and members of the public:

“You are an employee here; you are just a clerk and you will never be in a same level like me; you did not come with an office; when you came here we were here and you will leave us here; the phone is not yours – it is for the office...you don’t have to answer the phone and don’t answer me when I talk...you are witchcraft...you are using medicine...you are a witch.”

12(24)

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3.

You are invited in terms of regulation 26(5) of the Regulations to send or deliver a written explanation regarding the misconduct with which you are charged in order to establish which allegations are admitted and which allegations are disputed within ten (10) days after receiving this charge sheet. Such explanation is to be made to the Secretary, Magistrates Commission, Pretoria, by means of facsimile (012 – 326 0094) or alternatively by means of e-mail to gpretorius@justice.gov.za. Should you fail to reply within the stipulated period it will be deemed that you do not wish to submit any explanation.

GIVEN UNDER MY HAND AT PRETORIA THIS ^{3rd} DAY OF December 2014


M F LEGODI
CHAIRPERSON: MAGISTRATES COMMISSION

I hereby acknowledge receipt of charge sheet on

Full names and surname of the recipient:

.....
SIGNATURE: MAGISTRATE

DATE:

12(25)