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**SUPPLEMENTARY AFFIDAVIT IN THE SECTION 194 INQUIRY INTO THE REMOVAL  
OF THE PUBLIC PROTECTOR, ADV B MKHWEBANE**

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I, the undersigned,

**CORNELIUS JOHANNES FRANCOIS VAN DER MERWE**

do hereby make oath and say that:

1. I am currently the Senior Manager: Legal Services in the Office of the Public Protector ("PPSA"). I had deposed to an affidavit on 1 September 2022. I further depose to this supplementary affidavit at the request of the evidence leaders.
2. This affidavit, inter alia, relates to documents, invoices and emails in the main of which I have no personal knowledge, except that in my capacity as Senior Manager: Legal Services I have access thereto, and as these will be put before the Committee, to facilitate the presentation thereof. I have no reason to doubt the veracity or the accuracy of the contents thereof given that they have emanated from the PPSA Mimecast system.
3. As indicated, I was not party to these communications. I had regard to the issues arising from these documents after I was requested to assist the evidence leaders for purposes of finding an invoice to which is referred to on page 2997, being a statement for fees relating to services rendered up to December 2019. This would have been set by email. (I am advised this statement is located as part of Item 145 in Bundle F before

  
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the Committee and which was found among invoices and statements provided to the evidence leaders in 13 Bundles of invoices covering the period 2017 to 2022, which the PPSA's finance department had assisted the Evidence leaders with) and which included invoices that had also been provided by Mr Muntu Sithole. A copy of the invoice listed on the aforementioned statement as "Media Publications" was requested from both Mr Sithole and the officials in the PPSA Finance Department. The latter indicated that they would have to search for it as they did not readily have it on hand and that this invoice at the time was not paid. It appeared to have been queried by the CEO, which led to its withdrawal.

4. I am informed that Mr Sithole indicated in evidence to the Committee that he would have received it at the time. During a virtual meeting on Tuesday, 6 September 2022, at which I was present with Mr Sithole, the Acting CFO and the Manager: Financial Accounting, it was indicated that at the time the PPSA was on a manual system and that invoices and documentation to obtain the approval of payments was not submitted electronically. To find this invoice, required a search, and as it was not paid, it was not so that that it would have been kept. Mr Sithole indicated that he had not been able to find it, had searched his laptop and had requested such from Seanego.
5. The attached, marked "CM1" appears to be the invoice referred to on the aforementioned and which had accompanied such statement when rendered to the PPSA. To the invoice was attached a further invoice for services rendered by "Ngobeni Executive Consultants". The underlying communications and documents preceding this invoice have been uploaded to Bundle F, and to which shall be referred to in evidence. It appears to relate to services rendered as part of the "Public Protector Project" for the period April 2019 to July 2019 by Mr Paul Ngobeni, Ms Kim Heller and



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Prof Siphoo Seepe, in an invoice rendered by Ngobeni Executive Consultants and which reflects that Ms Kim Heller and Prof Siphoo Seepe is to be paid via Wekunene BX (Pty) Ltd (Inv No: SS-KH. 1-19) in the amount of R 120 000 for services rendered as apparent from the documents and communications uploaded and which appear to be self-explanatory.


6. Although I am informed by the Acting CFO that there is no record of the invoice in the amount of R 416 726.40 having been paid, it appears on scrutiny of other invoices rendered by Seanego, that fees were marked for some of the work of the nature detailed in the invoices provided by Mr Ngobeni.
7. In addition, I was also asked to confirm the dates of the late Mr Nyembe's appointment. I am advised that a folder containing documentation relevant to his appointment and lawfulness thereof have been uploaded as items 150 to 160 to the dropbox and shall be referred to during my evidence. I have for the first time been provided with some of these documents on Friday, 9 September 2022. It reflects that in a letter dated 8 February 2018, the late Mr Nyembe, following up on previous communication with Adv Mkhwebane dating back to November 2017 and subsequently on 15 January 2018 again, sought to conclude a long term contract with the PP for the duration of her period of office, alternatively 3 years, either as Lawyers for Radical Economic Transformation, the company of which Mr Nyembe was the sole director, alternatively, as a natural person. For ease a copy is annexed marked "CM2".
8. As confirmed by documentation obtained from Mr Tyelela, the PP engaged the services of the late Mr Nyembe by way of a letter dated 15 February 2018, as a Special Advisor



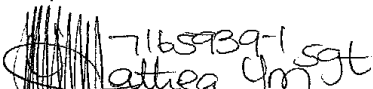
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for the fixed period of 1 April 2018 to 30 June 2018. For the period 1 July 2018 to 31 December 2018 he was not employed at the PPSA.

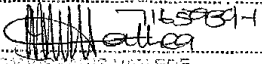
- 9. He was then appointed as the Chief of Staff on a fixed-term employment contract linked to the term of the PP with effect from 1 January 2019, pursuant to a letter of employment dated 18 December 2018. It is thus perplexing that he would have as an email address "SibusisoN@pprotect.org" on 12 July 2018 at which to receive an email from Mr Ngobeni – also sent to Mr Seanego - rendering what is referred to as an abbreviated invoice "for recent work performed on our recent Public Protector project". This email reflects that Mr Ngobeni understood that his invoices would be processed through the offices of Seanego Incorporated. For ease a copy is annexed marked "CM3", together with other communications relating to work being rendered.
- 10. This may well be what Mr Tebele referred to and to which I referred in paragraph 70 of my affidavit of 1 September 2022.

  
 CORNELIUS JOHANNES FRANCOIS  
 VAN DER MERWE

I certify that the above signature is the true signature of the deponent and that he has acknowledged that he knows and understands the contents of this affidavit which affidavit was signed and sworn to before me in my presence at PRETORIA on this 11th day of SEPTEMBER 2022, in accordance with Government Notice No R1258 dated 21 July 1972, as amended by Government Notice No R1648 dated 19 August 1977, as further amended by Government Notice No R1428 dated 11 July 1980, and by Government Notice No R774 of 23 April 1982.

  
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**COMMISSIONER OF OATHS**

SOUTH AFRICAN POLICE SERVICE  
 GARSFONTEIN  
 2022 -09- 11  
 COMMUNITY SERVICE CENTRE  
 SUID-APRITAANSSE POLISIEDIENS

Pretoria op 2022-09-11 om 18:05  
  
 (IN NOTED AND SIGNED BY) VAN DER MERWE  
 (SIGNATURE) COMMISSIONER OF OATHS  
 JOANNE MATHER  
 (FULL NAME AND SURNAME IN BLOCK LETTERS)  
 271 JOHANNY CLAASSENS STREET  
 (BUSINESS ADDRESS (STREET ADDRESS))  
 GARSFONTEIN SAPS 0042  
 Sergeant.  
 SA POLISIEDIENS