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Your Ref: Mr. Dyantyi  
Our Ref: TNS/PUB1/0028

5 March 2023

**Mr QR Dyantyi MP**

Chairperson: Committee of the Section 194 Enquiry  
Parliament Building  
Parliament Street  
Cape Town

Per Email: [tngoma@parliament.gov.za](mailto:tngoma@parliament.gov.za)

Dear Chairperson

**RE: YOUR LETTER DATED 1 MARCH 2023**

We refer to your letter dated 1 March 2023 to which we are instructed to respond as follows:

A: The oral evidence of Adv Madonsela

1. As indicated verbally during the last sitting last Thursday, we accept the offer to recall Adv Madonsela on the basis that the Public Protector team will “lead” her evidence by questioning her first. We remain of the view that, if all the objective facts are considered, the Evidence Leaders are supposed to lead her but we have agreed to lead her for the sake of progress as we are convinced that her evidence will assist the Committee in getting to the truth.

**Directors:** Theophilus Noko Seanego BProc, LLM (Corporate Law); Maribe Malope BA Law, LLB, Dip. (Labour Law). **Senior Associates:** Preshni Govender LLB, LLM (Banking & Stock Exchange); Phiwokuhle Mnyandu LLB, Dip. (Labour Law), LLM (International Commercial Law). **Associates:** Nondumiso Nsibande LLB; Nqubeko Makhanya LLB; Nafeesa Patel LLB, LLM (International Commercial Law). **Candidate Attorney:** Rebecca Chimuka LLB, LLM (Tax Law). **Consultant/Conveyancer:** Sampson Shadung BProc, LLB.

2. Your aforesaid letter contains inaccuracies that it would not be practical to deal with in detail in this letter. They will, no doubt, be addressed in due course. Suffice to say that it is confusing that you say it is “not clear” why (the Public Protector) did not find it fit to lead a witness who specifically refused to consult with her legal representatives and expressed a preference to consult with the Evidence Leaders as proposed in writing to her by you as Chairperson. Had your proposal been carried out to its logical conclusion it is unimaginable that the Evidence Leaders would have taken a statement from a witness only for the Public Protector to be subsequently asked to “lead”.
3. Be that as it may, these and other questions which arise from your letter will be addressed at the appropriate time and forum should it be necessary to do so.

B: The written and/or oral evidence of Adv Mkhwebane

4. Turning to the second issue raised in your aforesaid letter pertaining to the implications of the latest changes to the schedule, we wish to highlight the fact that such changes have obviously had a major impact on our already extremely tight workplan and it will, therefore, be impossible to expect the Public Protector’s statement, or any part thereof, on 9 March 2023.
5. In this regard you will appreciate that according to the original programme we would have had 4 to 5 days, including the weekend, to prepare the final draft of the PP statement. As matters currently stand there will only be one day between dealing with the witness and the proposed due date for the statement.
6. As you are also aware, the resumed hearing of the Western Cape High Court review application will take place on Monday 13 March 2023. The legal team will be preparing for that hearing in the days after the evidence of Adv Madonsela.
7. Instead of consulting with the Public Protector in respect of her witnesses statement, as previously planned, we are currently dealing with the evidence of Adv Madonsela. It should also be obvious that it will be impossible to complete the Public Protector’s statement in respect of Charges 1 to 3 (which relate to the CIEX and Vrede reports) without incorporating the evidence of Adv Madonsela. Similarly, it will be equally impossible to complete the statement in respect of Charge 4 (which relates to the HR

related allegations and favouritism) without incorporating the key evidence of Adv Mvuyana and Mr Mataboge.

8. We do appreciate your considerate suggestion to ameliorate the prejudice caused by the unforeseeable change of schedule by asking for the Public Protector's statement to be submitted in two instalments but that will unfortunately not alleviate the problems we are encountering.
9. In the premises, it will only be fair and reasonable to defer the submission of the Public Protector's statement to a date not earlier than 20 March 2023 and the commencement of her evidence to 27 March 2023.
10. Please note and underline that this request/proposal is made without conceding that the Committee is entitled to proceed to the calling of the Public Protector without calling any one or more or all of the outstanding witnesses named in our previous letter dated 28 February 2023. The decision of the Committee not to do so and the reasons advanced indicate the illegality of the decision(s).
11. Since it has become evident that there was some confusion on the part of the Parliamentary Legal Adviser and consequently the members and for the avoidance of any doubt: Our client's fresh requests to call or recall the witnesses named in our letter dated 28 February 2023 were not made as repetition of the requests unsuccessfully made in 2022 but purely in response to the new evidence of Adv Mvuyana and Mr Mataboge which places such witnesses at the centre of the issues relevant to Charge 4 of the Mazzone Motion. On this basis, we persist in our demand for the necessary reconsideration of the 2022 decisions in the interests of affording the Public Protector a fair opportunity to rebut the case made against her by Ms Mazzone. Failing such kindly furnish us with reasons within 3 days of this letter.
12. To insist adherence to the original programme in spite of the latest unforeseen developments will indeed amount to sacrificing fairness at the altar of expediency, as more recently and ominously proposed by one of the Committee members with apparent approval by the majority.
13. Subject to the important qualification articulated in the preceding paragraph, we are instructed to request you to either:

**Directors:** Theophilus Noko Seanego BProc, LL.M (Corporate Law); Maribe Malope BA Law, LL.B, Dip. (Labour Law). **Senior Associates:** Preshni Govender LL.B, LL.M (Banking & Stock Exchange); Phiwokuhle Mnyandu LL.B, Dip. (Labour Law), LL.M (International Commercial Law). **Associates:** Nondumiso Nsibandwe LL.B; Nqubeko Makhanya LL.B; Nafeesa Patel LL.B, LL.M (International Commercial Law). **Candidate Attorney:** Rebecca Chimuka LL.B, LL.M (Tax Law). **Consultant/Conveyancer:** Sampson Shadung BProc, LL.B.

- 13.1. grant the above request in the interests of a fair and reasonable enquiry;
- 13.2. refer the request to the Committee for a decision; and/or
- 13.3. grant us an opportunity to apply formally for the proposed deferment/postponement of the submission of the written and/or oral testimony of the Public Protector to suitable alternative dates other than those proposed in your aforesaid letter under reply. In that event kindly indicate if you require a written application and if so by when.

14. All our client's rights are specifically reserved. Accordingly and should our client's request not be granted, kindly furnish us with the reasons for such adverse decision, as dictated by the rules of fairness.

15. We look forward to your urgent response.

Yours faithfully



**SEANEGO ATTORNEYS INC.**