

Mr T Seanego

Seanogo Attorneys Inc

Block B, Suit C

1st floor, 53 Kyalami Boulevard

Kyalami Business Park

MIDRAND

1684

Dear Mr Seanego

**LEGAL SERVICES TO ADV B MKHWEBANE DURING THE PROCEEDINGS BEFORE THE SECTION 194 COMMITTEE**

1. My letter of 13 July 2022 and our telephone conversation of 14 July 2022 have reference.
2. As you are aware, and as advised by the Chief Executive Officer of the Public Protector SA (CEO), in her letter dated 4 July 2022, as well as in communications between the Acting Public Protector and Adv Mkhwebane, the PPSA agreed in principle to incur the reasonable costs of the defence of Adv Mkhwebane in her impeachment proceedings the Committee for the Section 194 Enquiry, subject to the submission of the cost estimate notice, in writing, specifying all particulars relating to the envisaged costs of the provisioning of legal services to Adv Mkhwebane for the purpose of and during the proceedings before (only). This request was repeated in my letter of 13 July 2022 and our conversation of 14 July 2022.
3. The proceedings have in the meanwhile started on 11 July 2022, and we have noted that Adv Mkhwebane is indeed assisted and represented by your Firm as well as Counsel (Adv D Mpofu, Sc) and I have observed the presence of at least one Junior Advocate.
4. The current state of affairs, where your Firm is acting without a written agreement in respect of the nature and extent of the PPSA’s commitment and liability for the funding of Adv Mkhwebane’s defence during the section 194 proceedings, is putting the PPSA at serious risk for a finding of irregular and/ or unauthorised expenditure on the costs implications of the legal services provided during the proceedings thus far. Furthermore, as you are aware, Public Finance Management Act, 1999(PFMA) and the Treasury Regulations require the Accounting Officer (CEO) to ensure that there is sufficient funding for any expenditure that it will be required to fund in respect of the provision or procurement of legal and related services by the PPSA in relation to the the section 194 process, (which is a particular concern in the light of statements made during the proceedings thus far on the possible duration thereof.)
5. The reality is that the PPSA did not budget for the financial implications of (extended) section 194 proceedings, and the Chief Financial Officer and the CEO will raise the issue with National Treasury on this issue during the Medium Term Expenditure Framework engagements scheduled for this week. It is therefore imperative that we ascertain the likely financial implications of Adv Mkhwebane’s legal representation at the section 194 proceedings as accurately and speedily as possible, to determine the extent of the PPSA’s reasonable financial commitment on the matter.
6. By direction of the CEO and Accounting Officer of the PPSA I therefore implore on you to provide this office with a written notice confirming a legal instructions from Adv Mkhwebane as envisaged in section 37(7) of the Legal Practice Act 28 of 2014 (LPA), and giving a cost estimate for the rendering of such services. The written notice must include the following details:
7. The likely financial implications, including fees, charges, disbursements and other costs;
8. The hourly rate of the attorney and Counsel/ advocate(s);
9. An broad outline of the work to be done in respect of each stage of the proceedings; and
10. The total daily (estimated) costs for the provisioning of legal services to Adv Mkhwebane for the purpose of the section 194 proceedings- if a cost estimation cannot be provided for the duration of the entire proceedings.
11. Should the Office not receive the required Notice by the close of business on 20 July 2022, the PPSA will proceed to finalise its offer on the reasonable expenditure for the provisioning of legal services to Adv Mkhwebane during the section 194 proceedings without the benefit of a cost estimation by your good selves, and advise you of the funding that the PPSA will be able to make available within budget.

Yours Sincerely



**ADV N VD MERWE**

**ACTING SENIOR MANAGER: LEGAL SERVICES**

**Date:\_12 July 2022\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Copy to:

**Ms T Sibanyoni**

**Chief Executive Officer**

**Public Protector South Africa**