

## IN THE SECTION 194 ENQUIRY

HELD AT THE PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA, CAPE TOWN

In respect of

**THE REMOVAL OF THE PUBLIC PROTECTOR OF SOUTH AFRICA, ADV B MKWHEBANE**

---

**CHAIRPERSON'S RESPONSE TO THE PUBLIC PROTECTOR'S 2<sup>nd</sup> RECUSAL APPLICATION**

---

### **INTRODUCTION**

1. The Public Protector (PP) lodged a written application dated 12 July 2023, which was brought to my attention on 13 July 2023 ("**2<sup>nd</sup> Recusal Application**" or "**Application**"), seeking my recusal from the committee established in terms of section 194 of the Constitution (**'the Committee'**), on the grounds:
  - 1.1. of an allegation of bribery, corruption and extortion made against me by the PP's husband, Mr Skosana and matters related thereto (First to Fourth Grounds in the Application);
  - 1.2. that the Committee and/or I are proceeding despite the PP's lack of legal representation (Fifth Ground in the Application); and
  - 1.3. that the alleged 'revelations' by the late Ms Joemat-Pettersson and the mere fact that she initiated inappropriate meetings with the Public Protector's husband, Mr Skosana, while the proceedings are in progress, are sufficient grounds for the disqualification of the decision making- panel and/or its Chairperson (6th Ground in the Application).
2. In addition, the PP raises as a Seventh Ground, the role of Ms Majodina (the Chief Whip of the ANC) alleging that she 'controls' the Enquiry and whether the Committee is now properly constituted due to the death Ms Joemat-Pettersson or whether it will be properly constituted if I were recused or removed.

3. In the circumstances the PP seeks the following relief:
  - 3.1. My recusal pending the finalisation of the investigation by the Joint Committee on Ethics and Members Interests (“**Ethics Committee**”) and the South African Police Services (“**SAPS**”); or alternatively my permanent recusal and the appointment of a new Chairperson; and/or
  - 3.2. The clear articulation of the method and procedure, if any, by which the late Ms Joemat-Pettersson (“**Ms Joemat-Pettersson**”) and /or myself will be replaced as members of the Committee, if necessary.
4. I hereby provide the Committee and the PP with my written response to this Recusal application and the issues on which further relief is sought. It bears mentioning at the outset that whilst I had initially undertaken to provide my response by Friday, 21 July 2023 this was not possible due to clarity sought on whether the PP had provided all the alleged recordings used in support of the Application (which has not been forthcoming). I deal with this in more detail in paragraph 42 below.
5. It is also necessary to briefly contextualise the allegations. The allegations of bribery, corruption, and extortion against me have been in the public domain as far back as 28 May 2023 when the Sunday Independent published an article titled “**ANC bigwigs allegedly demanded R600 000 to make Mkhwebane inquiry ‘go away’**”, written by journalist Mzilikazi Wa Afrika.
6. Mr Wa Afrika contacted me via WhatsApp on 27 May 2023, the day prior to the publication of the article, inviting me to make comment on the allegation that the late Ms Tina-Joemat Pettersson (Ms Joemat-Pettersson) approached the PP’s husband, Mr Mandla Skosana (**Mr Skosana**), to solicit a bribe of R200 000 to manipulate or make the Section 194 Enquiry (“**Enquiry**”) go away. This was the first time that I was made aware of the allegation.
7. I took a cautious decision to not respond with comment to Mr Wa Afrika because his name has surfaced in the Enquiry in connection with two matters which form the subject of the Motion in support of the charges of misconduct and/or incompetence against the PP as follows:
  - 7.1. Firstly, he is one of the journalists who wrote a series of articles (which the Sunday Times later issued an apology in respect of) alleging the existence of an illegal

South African Revenue Service ‘rogue unit’. These articles were used in support of the Sikhakhane Investigation Report in 2021<sup>4</sup>, which the PP relied on in the compilation of her own Report on the SARS Unit<sup>1</sup>. The PP’s SARS Unit report was subsequently reviewed and set aside, and the Enquiry has extensively dealt with evidence in relation thereto.

- 7.2. Secondly, Mr Wa Afrika also co-authored an article<sup>2</sup> with journalist Piet Rampedi on the CR17 matter<sup>3</sup> which the PP has referred the Committee to. When the article was displayed, a member of the Committee enquired as to whether Mr Rampedi was the same journalist who wrote the story about “*ten kids in a certain hospital in Gauteng.*” In responding, Adv Mpofu, SC stated:

*“These are very serious investigative journalists: Mzilikazi Wa Afrika. Mzilikazi Wa Afrika is the ‘ace’ investigative journalist in South Africa. Mr Rampedi, that he wants to make controversial because of one story, has got one of the most illustrious careers, starting with the Sunday Times and various others. And then Karabo ... I don’t know ... [over-talking]”<sup>4</sup>*

8. In the circumstances, I was circumspect and thought it best to not engage with Mr Wa Afrika. In respect of other media queries, I responded denying the allegations as I strongly continue to do.
9. Chaane Attorneys first raised the issue of recusal on behalf of the PP more than a week later on 4 June 2023, noting, in addition to an extension to brief counsel, that “*At the sitting tomorrow, our client will separately address the issues related to the allegations of bribery and corruption on the part of the Chairperson and one member of the Committee.*”<sup>5</sup>
10. I was forced to adjourn the hearings to 7 June 2023, as Chaane Attorneys and/or the PP had failed to brief counsel. In my response of the same day granting the extension I stated, in respect of the bribery allegations, the following:

<sup>1</sup> Report No: 38 of 2019/20, report on an investigation into allegations of violation of the executive ethics code by Mr Pravin Gordhan, MP as well as allegations of maladministration, corruption and improper conduct by the South African Revenue Services.

<sup>2</sup> The article was titled “How the cr17 campaign funds were channelled” - Sunday Independent, 11 August 2019, authored by Piet Rampedi, Mzilikazi wa Afrika and Karabo Ngoepe

<sup>4</sup> The exchanged occurred on 16 March 2023

<sup>5</sup> See Item 218 in Annexure “A” attached.

*“38. Lastly, I note that your client seeks to address hearsay allegations of bribery and corruption that has been attributed to myself and another member of the Committee. As these appear to have surfaced in the media, I have dealt with it in that forum.*

*39. This Committee is not seized with such allegations, nor does it have the mandate to deal with same. According to media reports the allegations have been reported to the SAPS and lodged, as advised by the Speaker, with the Joint Committee on Ethics and Members’ Interests. In the circumstances this Committee’s time and the R4 million set aside for conclusion of the process will not be diverted to deal with allegations which are before appropriate forums. As such no address will be permitted to occur before this Committee on this issue.”<sup>6</sup>*

11. On 6 June the PP wrote to me personally (as her attorney of record, Mr Chaane, had taken ill), requesting that I “voluntarily” recuse myself based on the bribery allegations, failing which she would instruct her attorney to move a recusal application on her behalf. She further threatened legal action if the following demands were not met:

*“28.1 That the enquiry be postponed until the outstanding issues pertaining my legal representation are resolved. This includes the recovery of my attorney from his current hospitalisation and the briefing of the counsel of my choice by my attorneys and/or the state attorney, whichever is appropriately mandated by PPSA.*

*28.2. Failing the above, that suitable arrangements be made for the Committee to hear my application for the recusal of the Chairperson pending the investigation into his involvement in the corruption and bribery scandal involving him, the ANC Chief Whip and the late Ms Tina Joemat-Pettersson as well as the circumstances of her alleged suicide to the extent that it is linked to the corruption allegations involving the Section 194 Committee.”<sup>7</sup>*

12. The PP attended the meeting of the Committee on 7 June 2023 without any legal representative. In my opening address to the Committee, I referred to the abovementioned correspondence and indicated that in respect of the intention of *“the PP to ask for the recusal of the Chair, that if the PP would want to proceed on that matter, I would indicate that I would expect a recusal application, in writing, submitted by Friday 13h00; and I will endeavour, as a Chairperson, to respond to that recusal application by Monday, 13h00. There will be no oral*

---

<sup>6</sup> See Item 219 in Annexure” A”.

<sup>7</sup> See Item 224 in Annexure” A”.

*representation of the recusal that will be permitted.”*<sup>8</sup> I provided a time frame (notwithstanding that the PP would be entitled to tender a recusal application at any stage) as I felt it important to deal with the matter promptly. For the sake of progress, I was willing to set aside the necessary time to consider such application speedily.

13. My address was followed by some interaction on the issue by members (some of which called for my voluntary recusal and others who agreed that in the absence of an application there was no recusal request formally before the Committee). I reiterated thereafter that I would deal swiftly with a written application if lodged by Friday, 9 June 2023. This was in line with clause 10.2 of the Amended Directives issued on 28 July 2022<sup>9</sup> which state that:

*“Any person wishing to make an application to the Committee, which is not otherwise provided for in this Procedure, or in the Assembly Rules, must do so in writing to the Chairperson.”*

14. No recusal application was lodged by 9 June 2023. At that stage the State Attorney, Pretoria had been appointed to replace Chaane Attorneys (due to Mr Chaane’s illness), but their appointment was rejected by the PP.
15. Instead, the PP sent further correspondence insisting that before a written application can be submitted, I must respond directly to calls for my “voluntary recusal” relying on amongst others my conscience; the need to protect the integrity of the Committee and Enquiry, the ANC step aside rule and the Constitution. The PP demanded further that if I fail to recuse myself, I must provide formal reasons by 17h00 on 12 June 2023 failing which the PP reserves her right to *“approach a court of law on an urgent basis to declare you unfit Chair the proceedings pending the outcome of the criminal and Parliamentary investigations.”*<sup>10</sup>
16. I found this incredibly bizarre as the PP was demanding that I recuse myself ‘voluntarily’ and provide reasons if I failed to do so all based on media allegations and without any application setting out the grounds on which she had a reasonable apprehension of bias.
17. The matter continued to receive media attention and the PP promised to release the audio recordings (which until that stage were not made available) which allegedly implicated me. It is my understanding from media interviews the PP has held that she received a letter from the Registrar of the Ethics Committee who raised concern about the way the PP sought to conduct

---

<sup>8</sup> See transcript of 7 June 2023 attached as Annexure “H”

<sup>9</sup> Item 235A in Annexure “A”

<sup>10</sup> Item 232A in Annexure “A” and BMR4 in the Application

her complaint in public and her failure to submit the recordings as part of her complaint to the Ethics Committee.<sup>11</sup> Nevertheless, the PP hosted a much anticipated press conference (supported by Adv Mpofu, SC and Adv Matlhape who were at that stage not on brief) on 13 June 2023, where the audio recordings of the alleged conversations between the late Ms Tina-Joemat Pettersson (Ms Joemat-Pettersson) and the PP's husband, Mr Skosana were played publicly for the first time and wherein she reiterated the call for me to recuse myself as apparent from the detailed statement to the media, which she attached as Annexure BM3 to the 2<sup>nd</sup> Recusal Application. In addition, she criticised, amongst others the judiciary and the Speaker of Parliament.

18. During the almost 5 weeks between the meeting of the Committee on 7 June 2023 and the submission of the 2<sup>nd</sup> Recusal Application on 12 July 2023, there have been various letters exchanged between Chaane Attorneys and me in relation to the issue of legal representation and the filing of the recusal application. For the sake of completeness, I attach a correspondence and activity table highlighting salient points related to the issues of recusal and legal representation, which table references (using item numbers) correspondence relevant thereto and which is referred to elsewhere in this submission (**Annexure "A"**)<sup>12</sup>. Each item has been provided in full and when read in their entirety provide the necessary context to the decisions of which the PP complains.
19. In all my correspondence I indicated that the PP is at liberty to file a recusal application whenever she deems fit (as per Directive 10.2), and I undertook to respond thereto. However, multiple letters ensued raising the issue again and again (from asking for my voluntary recusal to insisting that I provide directions and threatening legal action) all while I reiterated that I would consider the application when I receive it. It is thus entirely unclear why the Application has taken this long to be submitted, especially given the PP's relentless public calls for my recusal.

---

<sup>11</sup> See for example the following article: <https://www.timeslive.co.za/politics/2023-06-13-ethics-committee-warns-mkhwebane-dont-release-audio-evidence-of-bribery-say/>

<sup>12</sup> I have attempted to capture all the correspondence in respect of the issue of legal representation (as well as this recusal application) in Annexure "A". The item number reflects the correspondence as marked in the accompanying folder of records. Given the detail and length of the letters it was not possible to include a full description of the content. It is therefore necessary for the reader to refer to the actual letters and consider it in full to truly appreciate the context in which this issue has unfolded. This too should be considered further with regard to the transcripts of meetings. Where any correspondence in relation to the recusal application or the issue of legal representation has been excluded, this was inadvertent. As always, all correspondence is available for public consumption and forms part of the record.

## **MY DECISION**

20. After careful consideration of the 2<sup>nd</sup> Recusal Application, I have taken the decision not to recuse myself as the Chairperson or as a member of the Committee. I do so on the basis that I categorically and vehemently **deny that I have ever, in connection with the s194 process or the Enquiry:**
- 20.1. bribed, sought to bribe or otherwise solicit a bribe through Ms Joemat-Pettersson or any third party from the PP or any other person;
  - 20.2. sought to extort anything from any person or subjected any person to pressure or threats to induce that person to do or refrain from doing, in return for a patrimonial or non-patrimonial advantage, or for any other reason whatsoever;
  - 20.3. received any personal or financial benefit or sought to receive such benefit or that I have any personal or financial interest in the outcome of the Enquiry; or
  - 20.4. acted in any manner that was unfair to the PP.
21. In addition, I am of the view that the evidence tendered does not support that there is any *prima facie* proof of the allegations in respect of myself but rather raises further questions- this is dealt with in greater detail below.
22. I have maintained an open mind throughout the Enquiry and reached no predetermined conclusions in the assessment of the charges in the Motion. On the contrary I have actively engaged with the evidence and will continue to apply my mind in a fair, unbiased and rational manner when concluding on findings and making recommendations to the NA.
23. Furthermore, I am acutely aware of my duty to ensure that the process is reasonable and procedurally fair. I have always acted in good faith to ensure that the requirement of fairness is balanced against the Committee's Constitutional duty to perform its work diligently, without delay and within a reasonable timeframe.<sup>13</sup>
24. Where I have taken decisions, I have applied my mind and acted rationally. I have further always sought to promptly provide reasons for same (most often in writing). It is therefore necessary, especially in relation to Ground Five, which is based on the alleged lack of legal

---

<sup>13</sup> National Assembly Rule 129AD- The Committee must ensure that the enquiry is conducted in a reasonable and procedurally fair manner, within a reasonable timeframe.

representation of the PP, that the correspondence annexed hereto<sup>14</sup> is fully considered as it clearly motivates and explains the rationale for the continuation of the process and the reasonableness and fairness of the amended procedure in the circumstances.

25. To that extent I am of the view that it is an abuse of process to raise Ground Five as a basis for recusal nor has it featured as a basis for same prior to this Application. The allegation of the absence of legal representation has been fully ventilated in the correspondence, has served on several occasions before the Committee and written reasons have been provided in full for the decision to proceed where necessary. Such decisions must rightly and appropriately be challenged in a review application.
26. While I have endeavoured to deal with every averment, my failure to do so must not be construed as an acceptance thereof and I reserve the right to deal with it at a later stage or in another forum if necessary. This is especially so as the Application, like the previous one is sometime vague, contains several unsubstantiated and generalised statements; which include hearsay and personal views on political issues.

#### **Ad Para 2**

27. I deny the allegations. It is absurd to suggest that I am responsible for the alleged “*media silence*’ in relation to the bribery allegations or that I have any control over what the media (who are ethically obliged to report independently and without fear or favour) report on or how they report.
28. In any event, there has not been silence in the media in respect of the bribery allegations. The PP has in fact conducted several interviews (on television and radio) and held two media conferences. In addition, she and members of the public have continued to raise the matter on social media. If the PP is not satisfied with the way the media has reported (or not reported) on the matter (and including the 194 process as a whole) I advise her to take up her concerns with an appropriate body such as the Broadcasting Complaints Commission of South Africa, the Press Council of South Africa or the South African National Editor’s Forum as the case may be.
29. I deny that I have sought to deflect or distract the public from seeking answers by referring to delaying tactics. On the contrary, I have fully co-operated and intend to maintain such co-operation in respect of any duly instituted investigation in respect of this matter. My comments

---

<sup>14</sup> See Annexure A which contains a list all correspondence together with item numbers.



in the media are informed by my firm belief and personal knowledge that the allegations are without merit.

30. I disagree that the Enquiry can or must focus in any way on the passing of Ms Joemat-Pettersson as opposed to the Motion which deals with the sole question of whether the PP is incompetent or has misconducted herself as alleged. The Committee is not seized with an enquiry into Ms Joemat-Pettersson's passing nor is it appropriate for members of Parliament to speculate in respect thereof especially whilst the matter is receiving attention from appropriate state authorities. In addition, it is deeply disrespectful to her family. To this extent the PP has misdirected herself in understanding the powers and functions of the Committee.

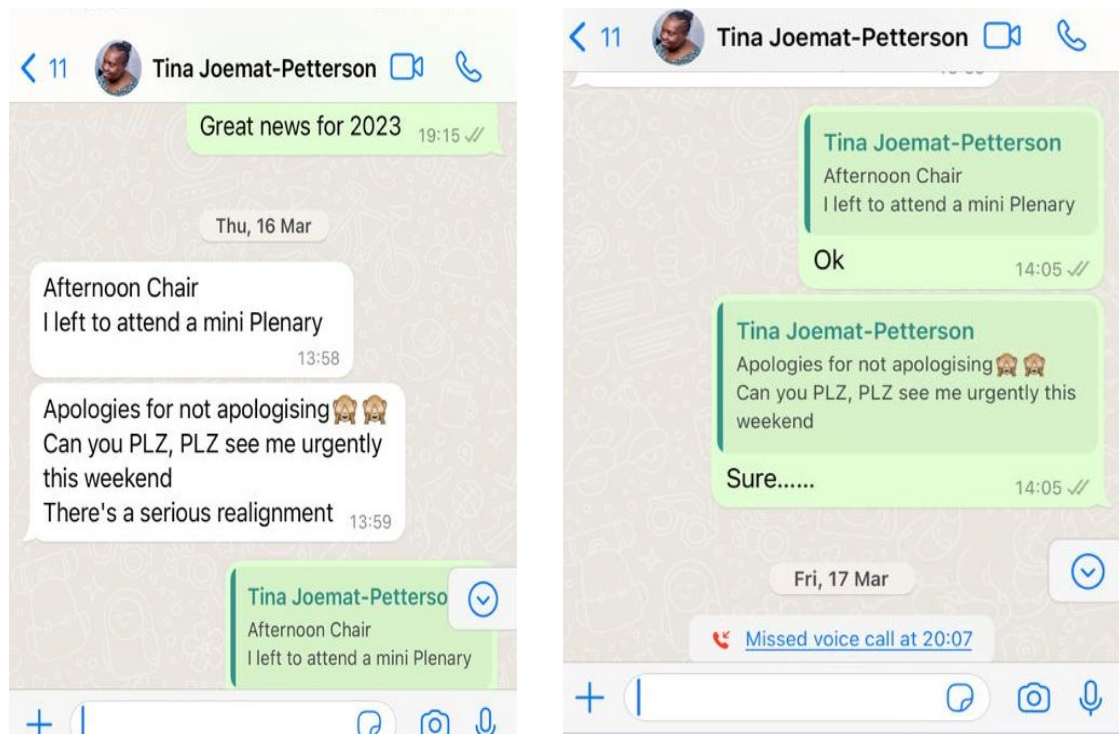
***Ad Para 3***

31. I was duly nominated and elected as Chairperson of the Committee unopposed. I have served in this role to the best of my ability. However, should the members of the Committee wish to remove me as Chairperson, whether based on the spurious allegations against me or for any other reason, I will abide by such decision without protest.
32. Similarly, should the African National Congress (ANC) wish to remove me as a member of the Committee, I will so abide.
33. I will not permit oral representation in the form that the PP requests (which is with the intention of leading evidence by her husband and her sister on the allegations and to play recordings which have already been provided to the Committee and are in the public domain). Neither the National Assembly (NA) Rules or the Directives (which are subject to the NA Rules) empower the Committee to investigate and reach conclusions on the allegations in a matter akin to an enquiry within the Enquiry. It is the PP rather than me who is the subject of the Enquiry. The mandate of the Committee is narrow and is restricted to considering the charges in the Motion and making a recommendation in respect thereof to the NA.
34. The allegations will be appropriately dealt with by the Ethics Committee which is duly empowered to investigate and make a finding in respect thereof. To that extent that Committee may recommend my suspension if they deem it fit in the circumstances, which recommendation will serve before the NA.
35. The 2<sup>nd</sup> recusal application sets out the reasons why, in the PP's views, there is a reasonable apprehension of bias. The application contains information for the Committee and myself to consider this question. This includes copies of the alleged recordings (though incomplete), an

alleged transcript, alleged WhatsApp communication and Mr Skosana's affidavit to the South African Police Services (SAPS) as well as the PP's complaint to the Ethics Committee. It is distinguishable from the first recusal application which related to conduct within the Committee and whether my decisions in relation thereto (supported by members) were indicative of bias. Adv Mpofu, SC has already presented the legal concepts of bias, reasonable apprehension of bias and fairness, at a meeting of 21 September 2022.

#### **Ad Para 4**

36. I confirm that Ms Joemat-Pettersson was physically present at the meeting of the Committee on 16 March 2023 held at the meeting room M46 in Parliament. This was day two of the PP's oral evidence.
37. Ms Joemat-Pettersson attended the meeting until the lunch adjournment when she sent me two WhatsApp messages (one after the other) moments before we were due to resume after the lunch adjournment excusing herself and requesting to see me. Below is a screenshot of the messages:



37. Whilst I do not have personal knowledge of discussions between Ms Joemat-Pettersson and Mr Skosana at that meeting, I noted that she sat on the same side of the Committee venue as him and they communicated during the sitting. The interaction I observed was disruptive and at

some point, I reprimanded Ms Joemat-Pettersson (as I would do to any member who disrespects the process) as follows:

*“Chairperson – Just pause. Honourable Joemat?*

*Advocate Mpofo – People are having lunch already.*

*Chairperson – No. Honourable Joemat, please keep your place. I see it is a traffic with you. Thank you. Please keep to your space, we are about to go to lunch soon. Over to you, Advocate Mpofo.*

*Advocate Mpofo – Thank you, Chair. So I was saying that we have three types of information. There's the paragraph that I read, there's the information in the report, there's no controversy. The only controversy is around the third type, so I am going to park this third type and we'll deal with it after lunch. So what I am going to do now is to deal with the information that is not controversial and that is in the...*

*Chairperson – Okay, go ahead. Thank you. I'm also trying to protect you from Honourable Joemat.”<sup>15</sup>*

38. Apart from the above-mentioned interaction during the Committee meeting and the exchange of the WhatsApp apology, I did not speak to Ms Joemat-Pettersson at all that day, either before or after the hearing. She did not attend the lunch in the members dining hall.
39. For the sake of completeness, I note that my understanding of the second WhatsApp message was that as a fellow member of the ANC Western Cape team, she wished to meet me in respect of party business. At this stage preparations were underway in the Western Cape for the first ANC elective conference to be held after some years during the upcoming Easter Weekend.<sup>16</sup> The term “alignment” is a term commonly used in the ANC to refer to persons supporting a particular person or faction within the ANC, and I presumed that she had information of persons who had changed allegiance that she wished to share. Since it was not of particular interest, I never followed this up with her and nothing more came of the matter.

#### **Ad Para 5 and 6**

40. I have no personal knowledge of any meetings between Ms Skosana and Ms Joemat-Pettersson save for what I witnessed on 16 March 2023 as described above; or any personal knowledge of WhatsApp messages or telephonic conversations. To the extent that such meetings or communications may have occurred, I deny that I ever asked Ms Joemat-Pettersson to approach Mr Skosana or any other person on my behalf nor did I consent to my

<sup>15</sup> See Transcript of 16 March annexed as Annexure “B”.

<sup>16</sup> The 9<sup>th</sup> ANC Western Cape elective conference was eventually postponed to the weekend of 23 June 2023.

name being used in any discussions. Likewise, Ms Joemat-Pettersson never shared any information with me in respect of the alleged interactions.

41. To the best of my knowledge, the alleged WhatsApp Communication has not been authenticated or verified. Further, without the benefit of having access to both Mr Skosana's and Ms Joemat-Pettersson's phone, I am not able to verify the alleged exchanges or to confirm whether messages have been deleted or altered or are a true and complete reflection of their alleged interactions in their entirety.
42. I note the audio recordings are extremely unclear and the transcript provided is not certified and not a word for word depiction of the alleged conversations. Furthermore, it is patently clear that the audio recordings do not reflect the alleged meetings in their entirety. In total I was provided with approximately 9 minutes and 14 seconds of recordings (split in 4 parts) whereas the transcript is made up of 12 parts each labelled as a separate recording, yet these additional recordings were not provided. I caused the Secretariat to make several enquiries to ascertain whether the full recordings were inadvertently not uploaded to the DropBox, but Chaane Attorneys confirmed this was all that was provided by the client. I went a step further, concerned that Chaane Attorney's may have made an error and asked them, via the Secretariat, to clarify the matter with the PP (who was copied in the email) and take instructions. In this regard the email stated as follows:

*"Dear Ms Mokaba*

*Further to my mail below, the Chairperson has asked that I clarify the matter of the recordings fully with you.*

*As indicated you initially uploaded one recording until I alerted you thereto. That was then followed by a further four (of the five I note one is a repetition). Accordingly, there are only four recordings that form part of the recusal application notwithstanding that the transcript provided refers to 12 recordings as previously indicated and notes that the meetings totalled an hour.*

*The recordings however are just over 9 minutes. As such, the Chairperson has requested that you seek urgent instruction and confirmation from your client that the recordings you uploaded are all the recordings made by Mr Skosana and that nothing has been inadvertently not provided.*

*Whilst I appreciate that you indicated that this was all you received from the PP, the chair has specifically requested that you bring the discrepancy to her attention so that she can provide further recordings if these exist.*

*Regards,*

*Thembinkosi”*

43. However, by the time of signing this response, such clarity has not been forthcoming. Instead, I received a letter (which I regard as shocking) from Chaane Attorney’s stating, *We confirm that, what we have provided is sufficient for purposes of the recusal application.*<sup>17</sup> It is thus concerning that paragraph 6 of the Application states that the 2 meetings lasted for approximately 1 hour in total, yet the recordings are not indicative of this. This is concerning and I submit suspicious (more so given the delays in the recordings being made available in the first instance).
44. In addition, there are no recordings of the alleged telephonic discussions. All this makes it impossible to consider the alleged discussions in their full and proper context.
45. What is apparent from the alleged recordings is that Ms Joemat-Pettersson was duped by Mr Skosana into believing that their meetings were not being recorded. It is unclear why Mr Skosana, if he believed Ms Joemat-Pettersson was soliciting a bribe on her own or anyone else’s behalf or was trying to extort money on my behalf, did not alert the South African Police Services with great speed to assist him to arrange an entrapment. This would have been especially so since the allegations, if true and proven, may have assisted his wife who has challenged the process since its inception.

---

<sup>17</sup> See Item 250 in Annexure “A”

46. I submit that any reasonable person in Ms Skosana's position would have involved law enforcement authorities given the seriousness of the matter, the fact that it related to senior politicians and concerned his spouse. There is no logical reason why such assistance was not sought, given that on his version of events he met with Ms Joemat Pettersson on more than one occasion, was in WhatsApp communication with her and spoke to her several times telephonically to discuss the alleged bribe thus presenting many opportunities to involve the police to assist in obtaining credible evidence.
47. If for whatever reason it did not occur to Mr Skosana to do so, its concerning that when he brought it to the PP's attention and she advised him to report it to the SAPS, she did not insist that the SAPS obtain the necessary evidence on their behalf. It is further extremely strange that even when making a sworn statement, Mr Skosana indicates that he is merely setting out a summary and the gist of the complaint and failed to provide the alleged recordings which ought to have been readily available on his phone. Again, it would be expected of any reasonable person in his position to have kept a detailed record of all evidence and to provide this immediately and in full to the SAPS. Instead, there has been great fanfare in releasing evidence in a piecemeal fashion and not dealing with the allegations promptly and completely.
48. It is also not clear why Mr Skosana did not simply put to Ms Joemat-Pettersson via WhatsApp directly or in a recorded conversation that he was willing or not willing to accept my alleged offer of a bribe to ensure there was a written or audio record clearly stating that I had requested a bribe (albeit that even if Ms Joemat-Pettersson did not deny or contest what was said that it would still be her version against mine as supported by any additional evidence). Neither the alleged messages or conversations contain any clear and irrefutable evidence (which Mr Skosana ought to have captured with relative ease).
49. I deny that the messages speak for themselves as claimed. Instead, the alleged WhatsApp messages:
- 49.1. Appear to suggest there may have been additional meetings/discussions that have not been disclosed particularly as other venues are referred to as well as telephonic discussions.
- 49.2. Appear to suggest that there was more to the conversations than Mr Skosana shared. For example, the role of 'Uncle Vic'; why Ms Joemat-Pettersson wanted "*to leave this*" if she had indeed instigated it on instruction from myself or any other person and how her willingness to do so would amount to extortion as alleged; her confusion on what the press

conference would be about; the fact that according to her *“there is nothing to tell”*; her requesting Mr Skosana to contact Ms Batha Dlamini <sup>18</sup>and him agreeing to do so despite the alleged souring of the deal; the gap in communication and the contact initiated by Mr Skosana some nearly 3 weeks later to which there appears to be no response from Ms Joemat-Pettersson.

### **Ad Para 7**

50. I deny that Ms Joemat-Pettersson was soliciting a bribe or attempting to extort money on my behalf or at my instruction or that she unequivocally stated that I had requested to be given an amount of R200 000.
51. On the contrary, the alleged audio recordings refer to numbers ranging from R20 000 to R300 000, and Mr Skosana is asked *“what do you think we must give them?”*. If indeed I had asked Ms Joemat-Pettersson to solicit a bribe on my behalf, one would reasonably expect that at the very least I would have named my price and conditions as it were (especially if it were extortion as alleged). In addition, it appears that she and Mr Skosana may have been acting in concert.
52. It is further not clear how the alleged actions of Ms Joemat-Pettersson would in any event amount to extortion or bribery, given that in one of the WhatsApp message’s she allegedly said (in response to Mr Skosana saying he is ready for any conditions):  
*“I think I must rather leave this.”*  
This would reasonably suggest that it is in reference to something she sought to consider initiating or was asked to participate in rather than being sent on my behalf. If she had such doubts, one would have expected her to discuss it with me rather than Mr Skosana.
53. Rather, it is Mr Skosana who appears to put pressure when it is clear that Ms Joemat-Pettersson was not able to arrange a meeting between Mr Skosana and me.
54. In addition, Ms Joemat-Pettersson allegedly says, *“I am not pushing you”* and *“if you don’t want to take it, don’t take it”* and *“No, I cannot negotiate with them.”* This is certainly not in keeping with a person who has been sent with a mandate (especially one that amounts to extortion).

---

<sup>18</sup> It is obvious that this could only have been a reference to the former ANC Women’s League leader and ANC politician Ms Bathabile Dlamini, who I assumed was to be contacted for purposes of somehow assisting the PP.

**Ad Para 8**

55. I deny that I requested Ms Joemat Pettersson to solicit a bribe or extort money on my behalf for any reason or ostensibly because I was not made a minister in the cabinet reshuffle in March 2023.
56. I have served as a loyal member of the ANC since February 1990- an unbroken 33 years of service to my party and country. In that time, I have occupied whichever position I have been deployed to by my party. These include being a member of the Western Cape Provincial Legislature; serving as the MEC for Local Government and Housing in the Western Cape and as a member of Parliament including as a Chairperson of this Committee and others.
57. I have also, on the instruction of the ANC played less prominent roles. In 1993 I was asked to leave school to assist in the historic preparations for the 1994 general elections as an election organiser in Khayelitsha. I have also acted for the ANC Western Cape as Head: Policy and Organising; as a regional and local election manager; as a ministerial advisor and most recently as Chairperson of the newly established Planning, Evaluation and Monitoring Committee in Parliament. I have no expectation that my service to the party and my country must be in a political role- I have always been happy to serve in a technical capacity or any capacity where I can add value.
58. In any event, it is trite, that the appointment of ministers is the prerogative of the President and as a dedicated member of the ANC I will continue to serve my party and my people in whatever capacity the party thinks fit.
59. In any event I deny that I had any expectation of becoming a minister or an ambition to be one. In fact, on the eve of the cabinet reshuffle, the secretariat (in the presence of others) pointedly asked me during a physical housekeeping meeting what would happen if I were to be appointed as a minister as it would mean I would have to be replaced. I remember being amused at the question and explaining that it was extremely unlikely as I had been tasked with chairing the Enquiry and that task was not complete yet. In addition, I shared that in my personal view occupying the post of a minister would not bring me the same satisfaction as the work I was currently doing in Parliament which was more varied and which I felt was the best use of my skills and where my passion lies. The persons present will testify in an appropriate forum under oath when necessary.
60. Further, it is preposterous to suggest that even if I were to have been aggrieved at not becoming a minister (which I deny) that I would risk my career, my ethics, integrity, and my freedom by



committing or planning to commit a criminal offence thus risking incarceration and losing my membership of the ANC, which I have served for more than 3 decades, for money.

61. I have a duty to protect and advance the interest of Parliament. This requires on my part, as Chairperson, to ensure that the Committee fulfils its constitutional mandate of assessing the evidence and making a recommendation to the NA (whether in favour of or against removal). It therefore beggars' belief that I would deliberately fail in a task as important as the one with which I have been charged, especially considering that the matter is of national interest. I am mindful that, should the Committee fail to table a report, it will reflect badly on my own reputation, on the ANC and Parliament.
62. In any event it is not clear how I would have assisted the PP in exchange for money. As a Chairperson I report to the House Chairperson who in turn reports to the NA Programming Committee (which meets in public) on progress made in the Committee. If I were to deliberately cause or permit unreasonable delays or otherwise compromise the process through my conduct, it follows that I would have been answerable for same within my own party, Parliament and in the public domain thereby risking my career and unblemished reputation. There is no doubt that the ANC could have easily replaced me if I failed in my duties as a Chairperson or the Committee itself would have removed me. I can see no logical connection in how a bribe could impact the program of the Committee.
63. Equally so the decision on whether to remove or not remove the PP from office is not my decision. It is a recommendation that will flow from the majority of a multi-party Committee which represents every party in the NA, and which will then still be subjected to a 2/3 majority vote in the NA, if the recommendation supports removal. In addition, any major decision that I have taken has always been as part of the collective of the Committee or with the support of the Committee following deliberations and / or discussions. I have never sought to act as a lone arbiter.
64. I have further always emphasised the 14<sup>th</sup> of October as a line in the sand- it being well known that the PP's term comes to an end on this date and the question of removal will be moot thereafter. It is unclear how, after being accused of being fixated on this date, that I would have been able to suddenly ignore this dooming deadline without arousing suspicion and coming across as either incompetent, reckless and/or deliberately absconding my responsibilities as Chairperson.

**Ad Para 9**

65. As indicated in paragraphs 31 to 35 above, the Committee is not seized with an investigation into whether there is merit to the allegations of bribery. Accordingly, the testimony of Mr Skosana or the PP's sister is entirely irrelevant to the mandate of this Committee. Such an investigation, in the context of Parliament, falls within the powers and functions of the Ethics Committee and Mr Skosana and the PP's sister can avail themselves to provide evidence in that forum if so required or within the criminal justice system.
66. I will lend my full cooperation and welcome any investigation by a forum duly conducting same. To that extent I have already instructed the secretariat to provide the Ethics Committee with a copy of this response because at the time that I provided my response to the complaint lodged by the PP in that forum against me, I did not have any of the annexures referred to in the PP's affidavit nor were the recordings made available to the Ethics Committee and in turn myself.
67. Should this Committee (which has the benefit of Mr Skosana's affidavit to the SAPS), in light of the allegations against me and the PP's claim of a reasonable apprehension of bias, wish to remove me as Chairperson I have indicated that I will abide by that decision. Had Mr Skosana wished to add any further information, nothing prevented him from supplementing his affidavit so that the PP could attach it to her application. In fact, one would assume that a recusal application of this nature contains a full disclosure of everything on which the PP relies.

**Ad Para 10**

68. I reiterate my denial of the allegations against me.
69. As the Chairperson of the Committee, it is my responsibility to ensure that the programme of the Committee and any timeframes imposed are reasonable and designed in a manner which allows the Committee to always fulfil its functions- this approach has been supported by the majority of the Committee.
70. The only thing the PP is being subjected to is a duly instituted Parliamentary process in terms of which she must account.

**Ad Para11**

71. I deny that the alleged statements referred to are the "key statements" made by Ms Joemat-Pettersson. In the absence of a complete record of all interactions between her and Mr Skosana, the statements cannot be considered without the benefit of context and the benefit of

Ms Joemat Pettersson herself explaining the statements. Rather, I view it as a poor attempt to implicate me in allegations of conduct in which I played no part.

**Ad Para 11.1**

72. I deny that there is a predetermined outcome. This defies logic because if that were the case, the Committee would have concluded its business a long time ago thereby saving valuable time and public funds. In fact, I have heard the Committee being criticised for leading witnesses and conducting a fact-finding mission when the various ‘scathing’ judgements against the PP form part of the Motion and would, in the view of some, sufficiently demonstrate misconduct or incompetence as alleged. The Committee was not compelled in law to call for oral evidence or to secure witness statements yet chose to do so. This is indicative of the fact that the Committee (who had the benefit already of the PP’s sworn affidavits and her version of events as tendered in the various review applications) intentionally conducted a fact-finding exercise. In addition, I allowed the PP to give evidence last and not be unnecessarily interrupted by members questions notwithstanding the Constitutional Court specifically stating that she would be expected to answer questions even if not under cross-examination at the time.<sup>19</sup>
73. As such when I was elected as Chairperson on 20 July, I emphasised as I continued to do throughout the Enquiry that the Committee members were assembled, not to rubber stamp the work of the Independent Panel, but to apply their minds and perform their constitutional duty. I have urged members to stay focused on due process and pursue facts and evidence before them. I have emphasised procedural fairness and explained to members that they are arbitrators of facts and would have to make recommendations and findings based on the concept of rationality. I indicated that by implementing due process and staying focused, any outcome would be the undisputed product of an adherence to facts.<sup>20</sup>
74. I am not aware of any “*project manager*” of the Enquiry. To the extent that it is insinuated that Ms Majodina is a project manager- I deny this.
75. Different persons play different roles in the Committee and to some extent this is covered in the Terms of Reference which deals with resources. The Committee is supported by several

---

<sup>19</sup> The CC stated in Para 45, “Furthermore, the fact that the office-bearer is entitled to legal representation does not imply that the committee cannot ask the office-bearer directly to respond to certain questions, even if she is not at that time giving evidence under oath.” (Speaker of the National Assembly v Public Protector and Others; Democratic Alliance v Public Protector and Others (CCT 257/21;CCT 259/21) [2022] ZACC 1; 2022 (3) SA 1 (CC); 2022 (6) BCLR 744 (CC) (4 February 2022)

<sup>20</sup> See audio visual recording of meeting at <https://www.youtube.com/watch?v=ANuFczSiTFU>

persons including the secretariat, content advisers and a legal adviser. In addition, there are 2 evidence leaders. These persons report to me as necessary, but staff also have their own administrative reporting structures. By contrast political parties have their own whippy system and as a political party we conduct study groups or caucus meetings as may be necessary- in these meetings it is only the ANC that is present and thus no other members of the Committee participate therein. There is nothing unusual or untoward about this and same is the case, for the ANC, in every committee in Parliament. This system is replicated by other political parties as well. In the case of the ANC our members are well aware that any finding in favour of removal can only be supported if rational- a fact that has been explained to the Committee in detail by the legal advisor.

76. It appears that the Application may have misconstrued the fact that I wear two hats- that of Chairperson and that of a member of the ANC. These two roles are distinct. In any event there is no person who plays a role akin to the one being suggested- i.e., of ensuring that the Committee makes a finding against the PP.
77. It is well known that Ms Dlakude, who is also a member of the Committee, is the ANC whip for the s194 ANC Study Group. This Study Group is further supported by ANC researchers and receives independent external advice from time to time in much the same way that any other large political party would operate.

### **Ad Para 11.2**

78. I deny that I would be or have ever been prepared to “*deliberately frustrate*” the impeachment processes of the Enquiry. On the contrary, as indicated in paragraph 64, I have been extremely cognisant of the need to manage fairness against the constitutional requirement for the Committee to complete its task diligently and without delay and in a reasonable timeframe. This is evidenced in the way I have managed and continue to manage the process. I have never been prepared to entertain any delay except where strictly necessary as I am extremely cognisant, amongst other things, of the cost of this matter to the fiscus. These sentiments are often shared by other Committee members who have also expressed their dissatisfaction with the undue delays which detract from other important Parliamentary work.
79. The alleged transcript of Recording <sup>121</sup> shows that Mr Skosana was of the view that the Committee was forging ahead (whilst simultaneously stating in paragraph 32 of his affidavit

---

<sup>21</sup> This transcript can only be in respect of the alleged meeting of 23 March 2023 as reference is made to the sitting of that day. There was no sitting on 21 March 2023 which was a public holiday and the date of the first meeting. Interestingly however it is marked as Recording “1”.

that my conduct had changed and I was '*uncharacteristically extremely nice and accommodating*') saying, "*I saw those guys sitting today, they going ahead and pushing, some happy and others not*" to which Ms Joemat-Pettersson says "*if they have to do things with less time, create balance with quality, my guy says there is no time left, Concourts, rules, procedural balancing.*" This happens to accord with the sentiments I have always expressed both in the Committee and the ANC Study Group that whilst time was an important factor, our conduct of the proceedings required careful balancing and paying heed to the dictates of fairness.

80. I again deny the allegations of bribery, corruption and/or extortion. I further find it insulting that I would even be accused of willing to compromise a Constitutional oversight process for a sum of R200 000 (or any sum for that matter). No amount of money would lead me to compromise my personal ethics or integrity or to bring my party or Parliament into disrepute.

81. I have dealt with the issue of not becoming a minister in paragraph 55 to 61 above.

82. I have no personal knowledge of any allegations against Ms Majodina and accordingly it is not my place to speak on her behalf except to say:

82.1. I note her vehement denial of the allegations against her as communicated by her in the media;

82.2. There is no evidence to support the allegation that Ms Majodina and I worked in cahoots to pursue a common goal of committing the offence of bribery or extortion.

***Ad para 11.3***

83. I note the content of this paragraph. The PP, mainly acting through her legal team, has certainly, in my personal view, attempted to delay the process through what I have termed "deflection and delaying tactics". I say this because there can be no other rational explanation for the repeated delays and obstacles which continue despite the efforts made by the Committee on behalf of the PP to assist her to see the Enquiry to conclusion.

84. I have however always ensured that where objections or issues were raised which could cause delays, I have given the PP the benefit of doubt and ensured that any decision in respect thereof is fair in the circumstances- in other words that I am not influenced by any speculation in respect of requests made or obstacles faced, and I respond fully thereto with reasons for any decision. This included, by way of example:

- 84.1. Taking with the utmost seriousness the concerns the PP raised that her legal team were not being paid due to a dispute on the veracity of the fee notes with the PPSA. In this regard I made various interventions to resolve the *impasse* and postponed hearings from 13 to 15 February 2023 so that the matter could be attended to;
  - 84.2. allowing the Committee proceedings to be paused whilst I assisted the PP in securing funds;
  - 84.3. allowing space in the Committee programme for non-sitting days when Adv Mpofu, SC needed to attend or prepare for court hearings even when not related to the Enquiry. By contrast I have instructed the evidence leaders that I will continue hearings where one of them may be unavailable;
  - 84.4. suspending the programme when the PP took ill on 2 occasions;
  - 84.5. suspending hearings to deal with the 1<sup>st</sup> Recusal Application; and
  - 84.6. providing additional opportunities for the evidence of Prof Madonsela and Ms Zulu-Sokoni to be led.
85. However, I would not find it strange if a supporter of the PP advises her to continue such “attacks” for purposes of delaying proceedings.

***Ad Para 11.4***

86. I cannot speak on behalf of the President.
87. The Committee has no role to play in the PP’s decision to resign or not. That issue has never arisen before the Committee nor has the Committee considered the issue of her entitlement to a pension or gratuity.
88. I note that the “*proposed approach of bribing members of Parliament*” was allegedly proposed by Ms Joemat-Pettersson which supports my version that I never attempted to solicit a bribe from any person via Ms Joemat-Pettersson or anyone else. If there is any meaning to be assigned to the bribery allegations, it is that this “proposal” appears to have been an intention to approach someone with an offer in exchange for favours (while simultaneously suggesting continuing with “*attacks*” and a “*two-pronged*” approach). It appears that the person referred to did not respond in the affirmative.
89. In other words, on the alleged “evidence” it is also conceivable to interpret that Ms Joemat-Pettersson was approached to offer a bribe to me and that she would also be paid in exchange for providing information of discussions in the ANC Study Group. By way of example the

transcript refers to her allegedly stating that her career would be over, “*because [she] would have accepted a bribe.*”, as opposed to asking for a bribe or extorting money. It would also appear that her presence at the hearing of 16 March 2023, was specifically to see the PP’s sister rather than me as she allegedly says, “*No, no because I came because she was there and I spoke to Janet (the sister).*”

90. In addition, the PP (like any other observer of the Enquiry) would have noted that Ms Joemat-Pettersson was a ‘silent’ member of the ANC caucus of the Committee who had never expressed any view or sentiment that may be regarded as adverse to the PP.

#### **Ad Para 11.5**

91. I concur that Ms Joemat-Pettersen had not, to the best of my memory, attended the Enquiry physically except for 16 March 2023. However, I am informed by the secretariat that she did attend on one other occasion but have no personal recollection thereof. It may be that it was prior to the hearing portion of the Enquiry commencing.
92. I confirm that two of the PP’s sisters, as introduced at the start of the meeting of 15 March 2023, were present at the meeting of 16 March 2023 as well. Ms Joemat-Pettersson would therefore have been aware the day before that they were physically in Cape Town to support the PP and if she were to attend on 16 March 2023 that she would likely get to meet them.
93. I do not have personal knowledge of whether Ms Joemat-Pettersson and the PP’s sister knew each other or were very close but I have no reason to dispute same.

#### **Ad Para 11.6**

94. I deny that Ms Joemat-Pettersson had come to see me either on the day when she was physically present at the Committee (16 March 2023) or on any other day to discuss any matter related to the Enquiry. As indicated in paragraph 89, it appears that she attended to see the PP’s sister Janet and to show her support for the PP, rather than to discuss anything with me. I was in fact surprised to see her physically present as she had not, as indicated earlier, been an active participant of the Committee. As indicated, I had no face-to-face discussion or conversation with Ms Pettersson at the meeting that day (or even thereafter) and my contact with her was limited to me reprimanding her and the WhatsApp exchange.
95. I confirm that I supported Mr Ramaphosa’s candidature for the Presidency of the ANC, as did the majority of ANC members as indicated by the result of the elective conference. However, to the extent that it is implied that I acted in a certain manner because of an allegiance to Mr

Ramaphosa (and a subsequent fall out as alleged due to not becoming a minister) that is categorically denied. My role as a member of Parliament which, as a separate arm of the state, holds the executive to account is not to be confused with my role as an ANC member.

**Ad Para 11.8 and 11.9**

96. I deny that I have ever been hostile to the PP- on the contrary I have done my utmost to conduct proceedings fairly. However, it has been that the PP, mainly through her legal representative, has habitually objected to every decision I take and the manner in which I have conducted meetings.
97. No evidence is provided to support Mr Skosana's allegation (repeated by the PP) that my conduct had changed, and I was "*suddenly uncharacteristically extremely nice to the PP and her legal team*". In terms of the alleged conversation on 23 March 2023, Ms Joemat-Pettersson says "*Did you hear my Chair? Did you hear the Change?*". Mr Sokasana responds, "*I saw those guys sitting today, they going ahead and pushing, some happy and others not*" meaning he was clearly of the view that I was pushing (rather than being lenient or nice) for the continuation of the Enquiry as opposed to suddenly being 'nice'.
98. Nevertheless, on Mr Skosana's version, the period in which I presumably would have not been hostile would have been between 16 March and 31 March 2023, as the Enquiry paused thereafter. During that period, the correspondence will show, I still held the PP to the due date for the commencement of her oral testimony notwithstanding that she did not submit her full statement by the due date (thus forcing me to grant an extension and to have it done in 2 parts). In addition, the following meetings were held, which I submit do not show any change in my behaviour from how I have previously dealt with matters:

**98.1. 23 March 2023 (Annexure "K")**

Hearings could not proceed as the PP tendered a sick note for the period 22 March to 27 March, inclusive. I deny that the postponement was anything out of the ordinary. This was the second time that I postponed hearings due to the PP's illness. In fact, I was concerned about the timing of the sick note as it impacted the limited time left for the PP to conclude her oral evidence before funding was stopped and because it coincided with a request by Adv Mpofu, SC to not sit on 22 March 2023. Co-incidentally in September 2022, notwithstanding my refusal to accede to an adjournment application, I was forced to adjourn due to the PP taking ill at the same time. I raised this concern with the legal advisor, including the fact that I had heard public sentiment questioning the validity of the PP's illness. Ms Ebrahim was of the view that the fair thing to do in the circumstances was to accept the sick note on the face of it



as the nature of the illness was private and any further queries may have resulted in perceptions of unfairness and may have caused objections based on the protection of personal information. My letter of that day clearly reflects that my conduct was driven purely by what was fair and reasonable in the circumstances though I was critical of the conduct of the PP's team.<sup>22</sup>

#### **98.2. 29 March 2023 (Annexure "L")**

The hearing resumed and Adv Bawa, SC raised a request for me to allow her to put questions to the PP in respect of CR17 as she had already been led on that evidence prior to taking ill. In other words, she sought to interpose the oral evidence based on the fact that it was voluminous, and she was concerned (with the legal fees issue looming) that it should be done while fresh in the mind of members rather than months later. I refused as the matter had not been raised before and I could not consider it fully on the spot. As days were running out quickly, I was eager that the PP conclude her oral evidence. However, I made it clear that I appreciated Adv Bawa's concerns, and I was not averse to the suggestion and would remain open to discussions on the matter. This demonstrates nothing more than me having reasonably applied my mind- in fact it would be some weeks later that I again considered the proposal and called for comment thereon by the PP.

During the hearing I also allowed for additional comfort breaks due to the PP's medical condition. However, I deny this was a change in attitude as I have always been sensitive to any limitations a witness or member has or any reasonable request to ensure that everyone is comfortable. Staff are aware of my concerns specifically for witnesses who are elderly or ill (such as Mr Seabi and Mr Samuels) and my insistence that we always ensure that all persons in attendance are comfortable.

#### **98.3. 30 March 2023 (Annexure "M")**

The PP continued oral evidence and midway Adv Mpofu, SC requested to raise an interlocutory issue of concern. A robust exchange followed in which I refused to grant his request. The exchange is captured below:

*"Advocate Mpofu – Chairperson, unfortunately, I need to raise an issue of concern. Well, firstly, we have noticed that for the first time since July that no Members of Parliament are present in this Committee. And it's a matter of concern particularly given that you indicated to us that there was a view that the Public Protector while she gives evidence the Committee had decided or*

---

<sup>22</sup> Item 179 in Annexure "A"

*proposed that she should be present here physically. So we don't know what's the point of having her here physically to address empty chairs. And it would probably ...*

*Chairperson – Sorry, sorry, where are we going now?*

*Advocate Mpofu – No, you'll see just now ...*

*Chairperson – No, no, no. Wait, I've not given you permission for that detour.*

*Advocate Mpofu – Okay.*

*Chairperson – I've not done that.*

*Advocate Mpofu – All right, I need to raise that.*

*Chairperson – Still listening to you interacting with the witness.*

*Advocate Mpofu – Yes*

*Chairperson – So, you can't just do that.*

*Advocate Mpofu – All right.*

*Chairperson – And you know how we operate on issues that are not relevant to what we're dealing with.*

*Advocate Mpofu – Okay. Yes, Chair. This is a serious matter and it's not irrelevant. And, maybe, off the cuff, and if you allow me just to go straight then to the issue that I want to raise.*

*Chairperson – No, we can deal with that matter. I would want us to proceed with the issues that you are about to get into now. And I'm going to park that issue and come to it; you'll raise it.*

*Advocate Mpofu – Chair, I beg you.*

*Chairperson – I'm just in the middle of this and that's what we do.*

*Advocate Mpofu – No, there's a reason Chair. Please allow me ...*

*Chairperson– No, I would not do that Advocate Mpofu. I would want you to proceed and continue with the next pillar, as we call them, that we need to deal with. Because you shouldn't be getting into the issues that are of relevance to how I run this meeting as a Chairperson. And I'm going to allow you to raise whatever issue you want to raise, but for now I want us to continue to deal with the matter that we have been dealing with.*

*Advocate Mpofu – Chair, I hear you Chair. But if you just hear me out; please.*

*Chairperson -No, Advocate.*

*Advocate Mpofu – You'll understand ... no, Chair ...*

*Chairperson– No, Advocate.*

*Advocate Mpofu – I can't continue Chair.*

*Chairperson – There's no way you can't continue. I want you to continue with the witness here, the Committee is in session.*

*Advocate Mpofu – That's the point, the Committee is not in session.*

*Chairperson – That's what you think, I'm going to explain that to you. Please go ahead with the next point Advocate Mpofu.*

*Advocate Mpofu – Chairperson ...*

*Chairperson – Because later on if there's an issue that I must listen to, I will do that.*

*Advocate Mpofu – No. Sorry Chair, it cannot be postponed. The issue is that there is no quorum in this meeting, as we speak.*

*Chairperson – That's exactly the point because you don't understand; I'll explain that to you later. Because I don't know if you understand how we run these issues. I want you to continue doing that and I'll explain that point because, there's a quorum. Because I don't know how you understand a quorum. If you're just pointing and counting people, then you're going to get it wrong. I'll explain that later. I want you to continue.*

*Advocate Mpofu – No, Chair.*

*Chairperson – Leave your issues of quorum; please continue.*

*Advocate Mpofu – No, Chair, I'm sorry. You have to ... I'm ready to continue Chair, but at least you have to convince me that there's a valid meeting; I can't continue.*

*Chairperson – There is a valid meeting and I'll explain that.*

*Advocate Mpofu – No, I need to ...*

*Chairperson – No, you can't do that ...*

*Advocate Mpofu – ... we dispute that there's a valid meeting.*

*Chairperson – ... because you can't do that. Please don't delay this meeting. Because if a Member, Honourable Holomisa is not here, it can't be an issue that we must stop; because a Member is not here. I've not given you an opportunity for you to digress to off-ramp. I'm the Chairperson of this Committee. The standing of this enquiry and this meeting, I remain in charge of that. And the decisions that we make in relation to what quorum and so on. You can't in the middle of you interacting with the witness because you've just received a note ... and that's what you do.*

*Advocate Mpofu – No.*

*Chairperson– No, I can't do that. I want you to continue interacting with the witness.*

*Advocate Mpofu – The problem Chair, is that you don't want to listen to me.*

*Chairperson – I've already listened. You've raised what the issue is and I'm saying I'm not entertaining the issue.*

*Advocate Mpofu – Chair, you have to listen to me and then you can overrule me; you can't refuse to listen.*

*Chairperson – I've already done that.*

*Advocate Mpofu – No, but you are refusing to listen.*

*Chairperson – And I'm going to give you the last time to say that and I'll repeat my ruling.*

*Advocate Mpofu – Please Chair, that's all really, I'm asking for. You can then repeat your ruling. Chair, all I'm saying, (I'm not fighting with you) I'm saying that according to our information the meeting is not properly constituted. If we are right - we may be wrong - if we are right that the meeting is not properly constituted, then you can't force me to continue in a meeting that's not properly constituted. All that needs to happen is to make sure that we establish that fact. And, maybe our way of establishing it is wrong, I'm prepared to hear that. But what you can't do Chair is then to force me to talk into a non-meeting.*

*Chairperson – Thank you.*

*Advocate Mpofu – So I just need to be ... so that's all I'm saying really.*

*Chairperson – Thank you Advocate Mpofu, and you know that that's the role of the Chairperson. It's not anybody else's role here to do that ...*

*Advocate Mpofu – ... to check, yes. But to object is our right.*

*Chairperson – I'm going to come back to you and attend to that from ... because that's when the point was raised, from about 14h30. Not at a point when things would have changed, to say at that point when you raised this issue this would have been a situation and I'll explain that.*

*Advocate Mpofu – Okay.*

*Chairperson – I'm not going to now digress from that. I want you to continue. I'll come back to that and explain that.*

*Advocate Mpofu – No, Chair, but then it means someone might go and recruit Members. I want to know if there's a quorum now.*

*Chairperson – I've already given it a time at which I'm going to be telling you, at this time this is what was happening. There's no recruitment that is going to happen. I want you to continue Advocate Mpofu and interact with the witness. And I see hands of the Members; I'm not going to take those hands.*

*Advocate Mpofu – All right, okay, we'll do that. But at least the record will show that we wanted (what do you call it?) a roll call or check. But, that's fine, it's your meeting, it's your process.*

*Okay, now Public Protector we're going to move to ... we've recorded the concern about whether the meeting is properly constituted. So, we'll proceed, as it were, under protest or on the assumption that we are wrong on that score."*

**98.4. 31 March 2023 (Annexure "C")**

The PP continued evidence. I declined a request by her and her legal team to raise issues of legal funding at the start of the hearing so as not to disrupt flow. I declined the same request again after the lunch adjournment, insisting it be done last.

99. The evidence simply does not support that there was any change in my attitude in anticipation of receiving a bribe or as a demonstration that I would, in exchange for money, allow the PP or her legal team any additional leeway other than what was fair in the circumstances and consistent with how I always take decisions.
100. On the contrary it serves to confirm that my approach to the hearings and proceedings have always been even handed. It would appear to me that when I make a ruling that the PP or her legal team or even her husband view as favourable it is welcomed and even used as evidence that I am acting with ulterior motive. However, when I make a ruling that is viewed as unfavourable it is automatically labelled as unfair and an indication of bias. However, the nature of the proceedings is such that not everyone can always be pleased as we play different roles with different obligations. Mine as Chairperson is to ensure that the Committee completes its task fairly and in a reasonable time frame- concepts that are not mutually exclusive.

***Ad Para 11.7 and 11.9***

101. I have no personal knowledge of what is alleged but I agree that the acceptance of a bribe by a senior member, especially in the aftermath of State Capture is career suicide.
102. Further I note that despite Ms Joemat-Pettersson allegedly asking Ms Skosana not to share details of their interaction he appears to have done so. Co-incidentally, at the very first hearing following her advice that Adv Mpofu, SC must push for minutes related to quorum issues, the exchange referred to in paragraph 98.3 above ensued where Adv Mpofu, SC clearly referred to the fact that *"according to our information the meeting is not properly constituted"*.
103. This leads me to reasonably suspect that the PP and her legal team were very much aware of the alleged interactions between Mr Skosana and Ms Joemat-Pettersson despite the PP

averring that she only learned of the interactions in May 2023. Co-incidentally she is vague as to when in May she learnt of it (which I deal with later in paragraph 190.1).

104. I note further that in the alleged WhatsApp communication, Mr Skosana threatens to call an *'urgent press conference'* to 'expose this Chairperson" (with Ms Joemat-Pettersson seeming confused and asking "on what") which is exactly what transpired but inexplicably only much later. One wonders why the PP, who occupies a position in which she is meant to investigate, establish facts, and reach conclusions, did not advise Mr Skosana to involve the SAPS to obtain irrefutable evidence.

**Ad Para 11.10**

105. I have no personal knowledge on the allegation made against Ms Majodina.

106. I deny that the ANC is dead. There are many ANC members, including myself, who are working extremely hard to ensure that as the ruling party we deliver on the promises to our people.

107. I note that once again it is Mr Skosana allegedly being requested to make an offer and is asked about the possible amount. This is suggestive of him possibly having initiated the idea.

**Ad Para 12**

108. I have no personal knowledge of the content of this paragraph and express no view in respect thereof except to say that the judiciary is a separate and independent arm of the State. To the extent that the PP or any other person is dissatisfied with a decision of a judge they have the right to review or appeal that decision, or even apply for rescission where appropriate, as the PP and her team are well versed with. To the extent that there is alleged misconduct on the part of a member of the judiciary, the appropriate forum to deal with such a complaint is the Judicial Services Commission.

**Ad Para 13**

109. I deny that the alleged recordings together with the WhatsApp messages put it beyond doubt that I was soliciting a bribe. If anything, it raises more questions as indicated in paragraph 21 above.

110. In addition, the alleged audio recordings:

- 110.1. are incomplete and constitute a few minutes of a conversation apparently totalling an hour (which cannot be verified without Ms Joemat-Pettersson). The alleged transcripts are inexplicably not in order (Recording 1 for example is the 2<sup>nd</sup> alleged meeting); are not a complete and accurate certified copy; do not provide dates or times and contain dialogue that has not been provided in the form of an audio recording.
- 110.2. show that Mr Joemat-Pettersson was providing advice on how the PP should approach the proceedings. When advice in relation to the quorum issue was later used it was to no avail and the proposition was rejected by me despite assurances given by Ms Joemat-Pettersson that I would accede to the request;
- 110.3. refers to balancing time and due procedure rather than any talk of an undertaking on my side to do the opposite;
- 110.4. show that Ms Joemat-Pettersson was not able to secure my presence at any meeting with Mr Skosana even though I confirm that I was in Birchwood, Johannesburg on 24, 25 and 26 March attending the ANC caucus Lekgotla. Her references to *“they are with me now”* or *“I’ve got both of them”* may well be a reference to the fact that she was in the general presence of myself and Ms Majodina as she too was meant to attend the Lekgotla. It can hardly be construed as meaning I was with her in as far as any alleged bribery or extortion scheme was concerned but rather, she could, on behalf of Mr Skosana, approach me during this time (which she did not);
- 110.5. there was more at play than Mr Skosana alleges- including him having to wait on the legal team saying *“I must wait for this legal team. I must wait and hear this people what the agreement was.”* Clearly, there were two approaches being considered which Mr Skosana was weighing up even saying *“No, no I can’t kill this one without hearing what’s happening the other side”* to which Ms Joemat Pettersson responds *“that’s why I am saying, keep this one open.”* A person extorting money would not be providing advice on options. In addition, it supports the suspicion that there may be tactics to possibly delay proceedings.

111. It further does not follow that if Mr Skosana was indeed *“ready for the conditions”* that I supposedly had, that days later he still did not ‘seal the deal’ as one would have expected nor was Ms Joemat-Pettersson able to secure my attendance as alluded.

#### **Ad Para 14.1**

112. I deny the content of this paragraph.



113. I deny, as explained in paragraphs 72 to 73, that there is a desired outcome or plan as alleged except to conduct a fact-finding enquiry and to make findings that are rational as per the oversight mandate of Parliament.
114. My conduct has shown that I tried my utmost to ensure that the PP completes her oral evidence. Had the PP not taken ill or refused and/or failed to brief her counsel after the R4 Million became available, her oral evidence would have been comfortably completed.
115. I did not permit the PP's oral evidence to be delayed when so requested and ensured that she commenced testimony in March 2023 even though she had failed to provide her statement in full by the due date. I made it clear on 31 March 2023 that the Committee would do whatever it must to ensure her evidence is concluded, including sitting additional hours and on weekends.<sup>23</sup>This was communicated to the PP. In addition, I made a concerted effort to assist the PP in securing additional funding so that hearings could be reconvened, and she could conclude her oral testimony. If at this stage I was angry at not becoming a minister (therefore presumably my anger would be directed at the President) as suggested, I could have easily thrown my hands up and allowed the process to unravel.
116. However, the record of correspondence in Annexure "A" will show that I did my level best to resume hearings. In addition, it will show that notwithstanding an additional R4 Million being made available, the Committee has been seized with multiple hurdles all which have had the effect of seemingly preventing the PP from concluding her evidence- notwithstanding her constant refrain that she is keen to do so. Annexure "A" paints this picture clearly and is incontrovertible evidence that the path that has now been embarked on is the only feasible way this Committee can conclude its important work.
117. There is nothing sinister about the path now being embarked by the Committee. I can confirm that since March 2023 I have considered (together with my caucus at times and with the Parliamentary team at other times) the effect that the withdrawal of funding would have on the proceedings and especially the fact that the delay means an already limited time frame is further stretched. There was no doubt that this Committee has already sat for far longer than originally planned and since funding would never be ongoing it was necessary to reconsider the programme. In this regard certainly discussions were had in respect of doing closing arguments in writing (this being a right afforded in the Directives which I may change if circumstances

---

<sup>23</sup>See transcript of 31 March 2023 attached as Annexure "C"

require) and various proposals were made to contain costs by cutting time, without compromising fairness, as the PP made it clear she would not cover her own legal fees.

118. I deny that in March 2023 I had any intention of not permitting the PP to give oral evidence. On the contrary it was eagerly anticipated by the Committee. If that were so I would not have gone to the lengths I did to secure additional funding. Furthermore, I would have proposed, much earlier than 9 June 2023 to proceed in the way we are now proceeding instead of waiting for more than 2 months to propose an alternative way forward. Instead, I repeatedly allowed for hearings to be delayed while the PP attended to the apparent “lack of legal representation.” There can be no question that the conclusion of oral evidence and oral questions and answers was my preferred way of concluding the Enquiry and ensuring that the PP accounts orally but circumstances, beyond my control and not occasioned by me, made this unfeasible.
119. I confirm that I was partially reading from my notes at the meeting of 9 June 2023. There is nothing unusual about this as I have previously used notes to assist me in meetings in much the same way that any member might. I deviate from my notes where necessary as things are often changing quickly and new issues get raised. The note was only prepared the night before and was not a ruling but a proposal on which I allowed the Committee to deliberate. It would not have been necessary had the PP been prepared to continue proceedings. The note was prepared within the context of the following obstacles, amongst others:
- 119.1. the refusal of the PP to brief Seanego Inc. after the R4 Million was secured leading to a dispute between her and the PPSA and resulting in the Solicitor-General having to intervene;
  - 119.2. the unexpected and unexplained withdrawal of Seanego Inc and the PP’s refusal to waive her privilege to allow the Committee to try to facilitate their return;
  - 119.3. the appointment of Chaane Attorneys followed by negotiations with counsel leading to further delays. This included Adv Mpofo, SC first imposing a condition that he would not take the brief without the support of his two juniors and after this having been approved then indicating that all 3 counsel have increased their rates. The PP has remained silent about the increase in rates except to object to the publication thereof;
  - 119.4. the sudden illness of Mr Chaane for an indefinite period and the insistence of Chaane Attorneys that no one in the firm could act in his stead;
  - 119.5. the PP indicating that counsel may not be available for hearings due to taking on other matters;
  - 119.6. communication from Mr Chowe of the State Attorney Pretoria to the secretariat on 8 June 2023 indicating that he would be appearing with the PP the following day (when hearings

were meant to be resumed) but without counsel who was not available. He indicated further that he would be raising 'preliminary' issues.<sup>24</sup>

120. In addition, I was acutely aware that should the Committee, after hearing months of evidence and having the benefit of the PP's sworn statement (on which she has been her partly led) and voluminous documentary evidence fail to produce a report for the consideration of the NA, it will not only be an indictment on Parliament but a waste of precious resources. In this regard I was especially mindful that the PPSA has indicated that the legal costs expended in s194 related processes has come at the cost of it performing its core functions.
121. In any event, the new approach (which was, as indicated, brought about by circumstances beyond my control), made provision for the PP to answer questions orally and to make a closing oral argument but these opportunities have not been accepted by the PP who has resisted answering questions orally, so much so that, on two previous occasions I amended directives to deal with this issue. The approach also gave the PP the advantage of being provided with streamlined questions in writing rather than being ambushed or bombarded with oral questions.
122. The PP's oral evidence would have been completed had she not taken ill and had it not been for the various delays and obstacles occasioned by matters of legal representation of which I have no control. These are more fully dealt with in my response to Ground Five.

***Ad Para 14.2***

123. It is not clear from where I would have been kicked out, but I presume that the reference is to the ANC. As indicated above, I have served the ANC for 33 years uninterrupted and I am willing to serve in any position that my party deploys me to.
124. It is unclear, how my political ambitions (if any) would reconcile with a deliberate decision on my part to collapse a process which is of significant public interest thereby exposing me to enormous risk and likely jettisoning any future career prospects (whether in politics or otherwise). Any person in my position would in any event be better placed to act prudently if political advancement were the incentive.
125. Even more absurd is that I would seek a bribe of a mere R200 000 because I was to presumably lose my job. Such a sum would be of short and temporary assistance in the face of joblessness.

---

<sup>24</sup> See WhatsApp Communication between Mr Chowe of the State Attorney Pretoria Office and Mr Thembinkosi Ngoma, Committee Secretary (Item 231.A)

It is irreconcilable that on the one hand I was due to lose my job (purportedly for not completing the Enquiry and finding in favour of removal) and on the other I was willing to collapse the Enquiry because I was angry with the President and sought to take revenge of some sort- which is the narrative that these allegations seek to perpetuate. It would appear that if this were true then either option would have severe adverse consequences for me rather than any benefit.

126. I have never heard of Ms Joemat-Pettersson referring to me as “my guy” and we certainly did not have a close relationship that would warrant the use of such a term, nor did I consider her an ally.

### **Ad Para 14.3**

127. I reiterate that I have no personal knowledge of the relationship between the PP’s sister and Ms Joemat-Pettersen and whether they had any conversations or not.

### **Ad Para 15**

128. I deny that I have any financial or personal interest in the Enquiry.

129. My only interest and concern is seeing the process fairly concluded. This stems from my duty as a loyal Member of Parliament and Chairperson of the Committee to ensure that the Committee delivers on its constitutional mandate. In this regard I previously informed the PP that:

*“It would be an indictment on Parliament which has, as a core function, the duty to conduct oversight (including holding office bearers of Institutions Supporting Democracy to account), if it were not able to conclude the process it commenced, regardless of what the outcome thereof may be, and which remains to be seen. This is especially so after the expense incurred in this protracted process.”<sup>25</sup>*

130. This is borne out by something I have kept confidential but will share for illustrative purposes. Last year, more than 12 months after I was elected Chairperson, I was approached by Mr Thembinkosi Ngoma, the Committee Secretary who asked me if I had been receiving my additional allowance for serving in such capacity (it being the case in Parliament that Chairpersons are remunerated at a higher rate than ordinary members). His question was prompted by a query he received from the Members Support Services Section. I indicated to him that I had not and dismissed the issue as a minor one. This is because I serve not for financial benefit but because I am and always have been committed to contributing to my

---

<sup>25</sup> See item 234 in Annexure “A”

country. Mr Ngoma was surprised and found it unusual that I hadn't ensured that I was paid what was due to me. This is certainly not indicative of someone desperate for money or financial gain but of someone who is willing to serve passionately regardless of financial gain.

#### **Ad Para 16**

131. I have dealt substantively with the grounds of recusal in the first application for recusal and respond hereto to the further grounds as raised in this 2<sup>nd</sup> recusal application. I cannot respond to grounds not raised. However, I note that there appears to be a general averment that the Enquiry as a whole is unlawful and unfair but note that the PP has held that view from day 1 of hearings as expressed in Adv Mpofo's opening statement.<sup>26</sup>
132. I am fully aware that the leave to appeal has been granted in respect of the judgement of the Western Cape High Court. However, I am advised that the granting of leave to appeal does not mean that the Committee is prohibited in law from proceeding.

#### **Ad Para 17 to 20**

133. As previously advised, I am not obliged to consult and obtain the agreement of the PP when directing how the proceedings of a Parliamentary committee are to be conducted. This is a Parliamentary process, and the Committee can determine its own proceedings provided it is fair. Parliament is an organ of state to which the PP is accountable. It is not so that Parliament accounts to the PP. Nevertheless, in my letter of 13 June 2023 I provided the PP with detailed reasons for the issuing of addendum 2 which I maintain is fair and reasonable in the circumstances.
134. As previously communicated, the PP has since the commencement of the proceedings objected to all the directives and reminded the Committee, via her legal representative, that she participated in the proceedings 'under protest'. Given that the s194 proceedings are novel, her counsel's input was sought when I previously issued directives. Similarly, I instructed the evidence leaders throughout the process to work closely with the PP's legal team in the hope that there would be less acrimony in the proceedings. However, the nature of the proceedings has been such that the PP has objected to almost every decision taken by me or the Committee. Whilst she is within her right to raise any objections in a review process, I am of the view that such objections cannot be a basis to refuse to participate in a legitimate oversight enquiry to the very body to which the PP is accountable.

---

<sup>26</sup> See audio-visual recording of opening statement at <https://www.youtube.com/watch?v=GUwAmg72JGY>

135. In as far as I am accused of issuing directives at a time when the PP did not have legal representation, I deny that I or the Committee deprived the PP of legal representation. The correspondence will show that on the contrary substantive efforts were made to assist the PP to avail her right to legal representation, but she has refused and/or failed to do so. In fact, even now almost 3 months since the additional funds have been made available <sup>27</sup>the PP has not secured her legal representatives for purposes of dealing with the merits of the Enquiry (their brief being limited to advising on this 2<sup>nd</sup> Recusal application only). This all while the additional funds continue to be depleted for purposes ancillary to the hearing. In any event it is for the Committee to determine proceedings and for me as Chair to issue directives and I deny that the PP's agreement is necessary for me to lawfully direct proceedings.
136. I am advised that section 34 of the Constitution—the right to have a dispute that can be resolved by application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum—does not apply to proceedings before the s194 Committee. It cannot, therefore, be the source of any entitlement to legal representation or for state funding of legal representation.
137. The Enquiry is not concerned with the adjudication of a dispute, nor it is a civil or criminal process. It is a fact-finding Enquiry to determine the PP's fitness to hold office by the body to whom she is accountable in law.

**Ad Para 21- 24**

138. I deny that there is any tangible evidence in support of the allegations.
139. I deny, with the contempt it deserves, the insinuation that I am a person who has “*never sacrificed even a strand of hair*” for this democracy or that I am making a mockery of our democracy. Incarceration in the liberation struggle is not the sole determinant of sacrifice. Everyday many members and staff of Parliament (like many other South Africans) exert sweat, blood and tears and work tirelessly in pursuit of the protection and promotion of our democracy.
140. I deny that there is a public call for me to recuse myself. Whilst that view has been expressed by some persons, many more feel differently and have called into question the veracity of the allegations against me.

---

<sup>27</sup> The PPSA confirmed the additional funding of R4 Million on 2 May 2023.

141. I maintain that all my actions to date have met the requirement of fairness as encapsulated in the NA Rules.
142. I deny that “*greed, bias, rudeness is the order of the day*’ in the Committee or that I as the Chairperson have allowed the Committee to operate in such a manner. If anything, members have been extremely patient with the myriad of hurdles faced and I work tirelessly to ensure that the decorum of Parliament is protected. In any event the comment is extremely general, not supported by any evidence and therefore without merit.

**Ad Para 25**

143. I deny, for the reasons set out above, that s34 of the Constitution is applicable to these proceedings but nonetheless deal, without prejudice, to the complaints listed in this Paragraph.

**Ad Para 25.1**

144. The Constitution does not oblige Parliament to ensure that the PP is legally represented in the Enquiry- the right to legal representation (although originally constricted) flowed from the NA Rules itself which were later amended by the Constitutional Court to allow for full participation by a legal representative or other expert assisting a person subjected to a s194 Enquiry. This view is supported by the fact that the Constitutional Court found that it lacked exclusive jurisdiction and did not grant direct access to the PP in respect of her recent application for direct access on the issue of legal funding.<sup>28</sup>
145. Similarly, neither the Constitution nor the Assembly Rules oblige Parliament to pay the PP’s legal fees. Notwithstanding same, I intervened where possible to assist the PP to secure additional legal funding.
146. The PPSA has made it clear from the commencement of the proceedings that they would only be able to fund the reasonable legal costs incurred by the PP. One would expect that the PP would appreciate that the budget of the PPSA is not limitless, nor can it continue to be poured unabated into the Enquiry at the expense of the PPSA’s other core priorities.
147. The PPSA availed an additional ring-fenced amount of R4 Million Rand (after having spent some R30 Million already on s194 related expenses) for purposes of concluding the Enquiry. That amount is presumably what the PPSA could afford and determined appropriate with

---

<sup>28</sup> PP v Speaker of the NA & Others, Case CCT 122/23- judgement denying direct access on basis that no case has been made by the PP for exclusive jurisdiction (delivered 14 June 2023)

regard to the fact, that the only outstanding steps to be taken were the completion of oral evidence in respect of the PP's Part B Statement, the questioning of the PP by members and evidence leaders, closing arguments and comments by the PP on the draft report before it is adopted and tabled in the NA. The PPSA has not involved itself, for obvious reasons, in the issuing of instructions to the PP's legal team as it is the PP rather than the PPSA which is the subject of the Enquiry. It was thus, in my view, entirely reasonable of the PPSA to request of the PP that she manage the funds allocated to her and ensure it is used in a manner that allows her to benefit fully thereof for purposes of concluding the proceedings.

148. Rather than working together with the Committee to ensure that the R4 Million is utilised effectively and efficiently (by for example extending committee hours; arranging for the PP to attend virtually to save disbursements; splitting work amongst the legal team or reducing the team etc), the PP has merely objected to the amount and made absolutely no effort to allow proceedings to continue. Instead, the amount continues to be depleted by amongst others, Chaane Attorneys' perusal of the record, the unreasonable rejection by the PP to use the State Attorney at no cost; the increase in counsel fees and the insistence on a team consisting of three counsel and attorneys of record. More detail is provided in support of this when I deal with the Fifth Ground below read together with correspondence on this matter.

### **Ad Para 25.2 and 25.3**

149. Chaane Attorneys has maintained, inexplicably, that they are not able to brief counsel on the merits of the Enquiry until such time as they have '*familiarised*' themselves with the record.
150. It is common cause that Chaane Attorneys was appointed initially on 23 May 2023 following the sudden and still unexplained withdrawal of Seanego Inc after the additional R4 Million Rand was made available. Due to the manner in which the legal fraternity operates in South Africa, it was necessary for the PP to have attorneys of record for purposes of briefing her legal representative of choice, being Adv Mpofu, SC. At all times it is Adv Mpofu, SC who has played the role of legal representative as envisaged in the Assembly Rules.
151. From 23 May 2023 until 4 June 2023 Chaane conducted negotiations for the appointment of Adv Mpofu, SC whilst perusing the record. In the first instance, Adv Mpofu, SC insisted that his two junior counsel must also be briefed. This request was agreed to. It was then followed by another request for an increase in fees in respect of all three counsel. This too was agreed to.



152. During this time the Parliamentary team ensured that Chaane Attorneys were provided with access to all records<sup>29</sup> and whatever other assistance may have been required for purposes of 'onboarding' at this stage of the Enquiry. However, it appears that none of the initial 13 days (prior to Mr Chaane taking ill on 5 June 2023) were used for the purposes of Chaane Attorneys familiarising itself with the record. The need for Chaane Attorneys to familiarise themselves with the record to the extent they indicated was necessary is also disputed and is adequately canvassed in the correspondence.
153. Thereafter Mr Chaane took ill for, what was represented to the Committee, as an indefinite period (with the EFF indicating that he was on his 'death bed'). The Committee was informed that no one at Chaane Attorneys had the ability to act in his stead. This led to a termination of Chaane's brief and the appointment of the State Attorney, Pretoria to act as attorneys of record for purposes of briefing counsel (who at that stage was for some reason still not on brief).
154. The PP vehemently objected to the appointment of the State Attorney notwithstanding that it would save considerable funds (the State Attorney does not charge for its services) and therefore allow for the R4 Million to be stretched.
155. Whilst I note the Solicitor-General had initially raised a concern about a potential conflict of interest, he himself, based on the developments with Chaane Attorneys terminated their brief in favour of the State Attorney. The objection of the PP must be understood against the context of her stating in writing, on two separate occasions, that she had no objection to the State Attorney being utilised (however, when that came to fruition she objected) as follows:
- 155.1. On 5 May 2023, a letter was addressed to me from RMT Attorneys (acting as the PP's personal attorneys) stating as follows:
- "Given the fact that our client is without any legal representation in the Committee and her eagerness to complete the process but in a fair manner, she would have no objection to being represented by the State Attorney, or for that matter, any other attorney, provided of course that this would be done in a manner which will be fully compliant with the binding order of the Constitutional Court." (own emphasis).<sup>30</sup>*
- 155.2. On 6 June 2023, the PP addressed correspondence to me personally and noted as follows:

---

<sup>29</sup> Records are stored on an online repository referred to as the "DropBox".

<sup>30</sup> See Item 191.D in Annexure "A"

*“In view of all the above I hereby make the following demands: -*

*28.1. That the enquiry be postponed until the outstanding issues pertaining my legal representation are resolved. This includes the recovery of my attorney from his current hospitalisation and the briefing of the counsel of my choice by my attorneys and/or the state attorney, whichever is appropriately mandated by PPSA.” (<sup>31</sup>own emphasis)*

156. Nevertheless, following the sudden recovery of Mr Chaane, coupled with the PP’s objections, the mandate of Chaane Attorneys was reinstated on 14 June 2023. However, Chaane continues to claim that they are unable to brief counsel on the merits of the matter as they are still in the process of sufficiently familiarising themselves with the record. To date they have only briefed counsel for the purpose of bringing this recusal application. Yet the funding continues to be depleted and my estimates are that it has probably exceeded R1 Million Rand by now without the PP having briefed counsel on the merits of the matter.<sup>32</sup>
157. I was shocked to learn from the secretariat that when they requested Chaane Attorneys to upload the alleged recordings to the DropBox they were told by Chaane Attorneys that they do not have access to the DropBox (a link was indeed sent to them, but they never accessed it). This even though they continue to claim they are perusing and familiarising themselves with the record since their appointment.
158. In any event, as I previously indicated Chaane Attorneys stepped in at the tail end of the Enquiry when all witnesses had been led and the PP had already committed to her version of events in the form of a sworn written statement (in 2 parts). It cannot be argued, given the late stage of the Enquiry proceedings that Chaane continues to “study the record”.
159. I further reject that this is a decision of Chaane alone (based on claims of professional duties). The PP is aware of the financial and time constraints in this matter and yet has not instructed Chaane to brief counsel on the merits of the matter. Instead, it appears that the PP is allowing the limited legal funds (which she insists is insufficient) to be dissipated in perusal costs which may be completely unnecessary. I had expected that the PP would appreciate that the role of Chaane Attorneys is limited to placing her counsel on brief and assisting her counsel where necessary (it being noted that Adv Mpofo, SC also has 2 juniors on board). Given the late stage of the Enquiry and the fact that that counsel is extremely familiar with the matter the stubbornness in refusing to brief counsel is inexcusable.

---

<sup>31</sup> See Item 224 in Annexure “A”

<sup>32</sup> In a letter of 3 July 2023 (Item 243 in Annexure “A”), Chaane Attorneys indicated that in their estimate more than R500 000 had already been spent of the R4 Million allocation. Since then, they have continued to peruse the record.

160. I draw a comparison to a patient who is under the care of a general-practitioner (“GP”) and a specialist medical team, the latter being responsible for performing lifesaving surgery or providing specialised treatment. If midway through such treatment, the GP becomes unavailable and is replaced, the new GP can hardly insist that the patient cannot access lifesaving medical treatment until they have studied all the medical records in detail and are able to provide the specialist team with directions. Such would be a dereliction of duty.
161. I will therefore be forgiven for worrying that the R4 million will be exhausted or substantially spent without the Committee making any progress.
162. Lastly, I have noted the threatened withdrawal by Chaane Attorneys and for the reasons provided above and captured in the correspondence, I am of the view that same is unprofessional and unethical and may well be designed to deliberately collapse the Enquiry.

***Ad Clause 26 to 31***

163. I have dealt with the issue of oral representations in paragraph 33 to 38 above.
164. Whilst I have taken the decision to not recuse myself, this response will serve before the Committee. The Committee may then take a decision to remove me as Chairperson if it so wishes.
165. I deny that there is anything unreasonable in my request for a written recusal application. Such a request is in accordance with the Directives and is necessary in order that I may apply my mind fully.
166. I deny that the process has been “inherently unfair and biased”. The record will show this not to be the case.
167. I deny that Ms Majodina (who is chief whip of only one of the 14 parties represented in the Committee), ‘controls’ the Enquiry. I have explained how the Committee operates and the ANC caucus. In any event no proof has been submitted to support same.

***Ad Clause 32 and 33***

168. I confirm that my stance has been that the PP must submit a recusal application in writing for me to adequately respond to same, as I do now. I submit that this is the correct and most procedurally fair manner of attending to the matter.

**Ad Clause 34 and 35**

169. As indicated in paragraphs 9 to 19 above there is no explanation for why the PP failed to simply submit a written recusal application timeously. Instead, she engaged in unnecessary correspondence, threatened legal action and insisted on me providing a date by which to bring the application notwithstanding that when I did provide a date, she did not meet the deadline and later refused to accept my directive that she could bring it when she wanted making various demands instead.
170. I deny that there is anything absurd about demanding that a recusal application be in writing. There was no reason why such application could not have been brought as far back as May 2023 already when the PP purportedly became aware of the allegations (i.e. long before the new approach and deadlines were implemented). In fact, I submit this would have been the appropriate thing to do. The PP has managed to garner private legal support for other matters related to the Enquiry, including utilising RMT Attorney's to address correspondence to the Committee and to institute her recent application to the Constitutional Court (since dismissed); utilising private attorneys to lodge an appeal in the SCA and being provided with legal support at her media briefing. Accordingly, I do not accept that if she did indeed require legal assistance to submit a recusal application that such legal support could not have been availed or that Chaane Attorneys could not have been instructed to brief counsel to timeously bring the application or that Chaane Attorney's themselves could not have assisted.

**Ad Para 36- 46 (Section B: The Previous Application for Recusal)**

171. I confirm that this is the 2<sup>nd</sup> Recusal Application and that my refusal to recuse myself on 21 September 2022 is the subject of an appeal lodged in the Supreme Court of Appeal.
172. I confirm that the decision of the Western Cape High Court was that the review of the recusal decision was brought prematurely or *in medias res* and the Court accordingly did not pronounce on the merits of the recusal application.
173. I deny that there is a pattern of bias or that bias has been established or can be reasonably apprehended by a reasonable person. The mere fact that the PP may be unhappy with rulings does not mean that there is bias.

174. I am of the firm view that I will not be found guilty in any forum of the allegations of bribery, corruption or extortion as I have not committed any of those offences or attempted to commit such offences nor have, I caused any other person to commit or attempt to commit such an offence.
175. I take absolute exception and deny with the utmost contempt the allegation that I am involved or linked to the murder of Ms Joemat-Pettersson. In the first instance I have no personal knowledge of the cause of Ms Joemat-Patterson's death, and I find any speculation in respect thereof in poor taste and without any respect for her loved ones. Secondly, the PP in her press conference of 13 June 2023, blamed the whole of the State- including the legislature, the executive and the judiciary for the death of Ms Joemat-Pettersson seeking clearly to sensationalise the matter and lend credence to the allegations against me.
176. I agree that the allegation, were they to be with merit, are serious. However, I stand firm that the allegations against me are completely devoid of any truth.
177. I remain committed to ensuring that the s194 process is fair. This is so notwithstanding that the PP has now sought my recusal on 2 separate occasions and has constantly objected to the proceedings. I remain steadfast in ensuring that I bring the proceedings to finality in a manner that will withstand legal scrutiny.

***Ad Para 42 to 46***

178. I agree that fairness is derived from the 2 rules of natural justice as referred to in Paragraph 43 of the Application.
179. I deny that the doctrine of legitimate expectation is of relevance or application to the current proceedings. The Committee is not a court of law- it's powers and functions are circumscribed by the Constitution and the NA Rules. Those rules do not permit an enquiry into the veracity of the allegations made against me. It simply requires me to take a decision on whether to recuse or not to recuse myself and for the Committee to determine, based on the Application. Such an oral presentation serves no legitimate purpose and therefore there can be no expectation, legitimate or otherwise, in respect thereof. Adv Mpofo, SC as indicated in paragraph 41 of the Application has already spent a great deal of time "enlightening an explaining" the meaning of fairness to the Committee. in any event it is clear that what the PP seeks is to have an oral enquiry unfold in respect of the allegations and even the passing of Ms Joemat-Pettersson.

**Ad Para 47**

180. I welcome the admission that the truthfulness of the alleged interactions between Mr Skosana and Ms Joemat-Pettersson is still to be established and is not irrefutable as the PP would have one believe.

**FIRST GROUND: ALLEGATIONS OF BRIBERY, CORRUPTION AND/OR EXTORTION AGAINST THE PRESIDING OFFICER**

181. I agree that the proceedings before the Committee are not criminal proceedings or civil proceedings and therefore the law of evidence does not apply. This extends to all evidence before the Committee, including evidence related to the Motion. However, the only evidence that can be admissible and of probative value in the Enquiry is evidence related to the charges in the Motion itself.

182. I fail to follow why the PP insists on conducting a trial of sorts within the Committee when it has neither the power nor function to conduct same. The PP has misdirected herself on arguing in respect of the admissibility of evidence rather than the question of whether such evidence is relevant to the charges in the Motion- that being the only matter the Committee is legally empowered to deal with.

183. I have caused the Secretariat to provide the Committee with a copy of the 2<sup>nd</sup> Recusal Application together with the annexures thereto and the alleged recordings. These will be put on the Committee webpage as well for public consumption. Members are at liberty to listen to the recordings in their own time. No purpose is served in playing the recordings in the Committee thereby wasting time and limited resources (including the PP's legal funds). The question before the Committee is not whether I have committed the crime of bribery or corruption or extortion but whether, based on the content of the recusal application, the PP can reasonably apprehend bias on my part and the Committee is of the view I should therefore be stripped of my role as Chairperson.

184. Notwithstanding that Mr Skosana or any other relevant witness can provide their oral testimony to the Ethics Committee if called upon to do so or in a criminal trial if same comes to fruition, there appears to be an obsession with dealing with the matter in the Committee. The committee will not provide a public platform for media attention.

185. Notwithstanding the above, I wish to note the following that can be dealt with more appropriately by another forum duly considering the evidence:

185.1. There are only 2 witnesses to the alleged recordings, messages and telephone conversations- Mr Skosana and the late Ms Joemat-Pettersson. Unfortunately, she cannot verify the authenticity and completeness of the WhatsApp messages or recordings or shed light on any conversations. No records of telephonic conversations exist. I have already noted that the recordings are patently incomplete and cut into various parts which do not add up to the alleged 1 hour that they met on at least two occasions and the transcript is not certified (and a cursory consideration will show it is not completely accurate).

185.2. Even if the recordings and messages were to be confirmed as true, there is no evidence at all to implicate me directly. On the contrary my phone records will show that I had no communication with Ms Joemat-Pettersson or Mr Skosana on any issue relating to the allegations.

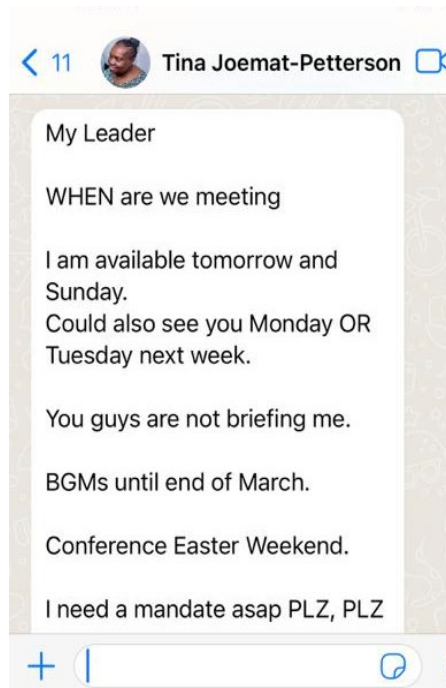
185.3. It remains to be seen whether the recordings were legally obtained given that it is entirely possible that the recording was made pursuant to conversations wherein a bribe was offered to Ms Joemat-Pettersson, or she was being requested to involve herself in criminal activity at the behest of Mr Skosana.

186. I maintain there is no merit to the first ground. In additional support hereof I note the following:

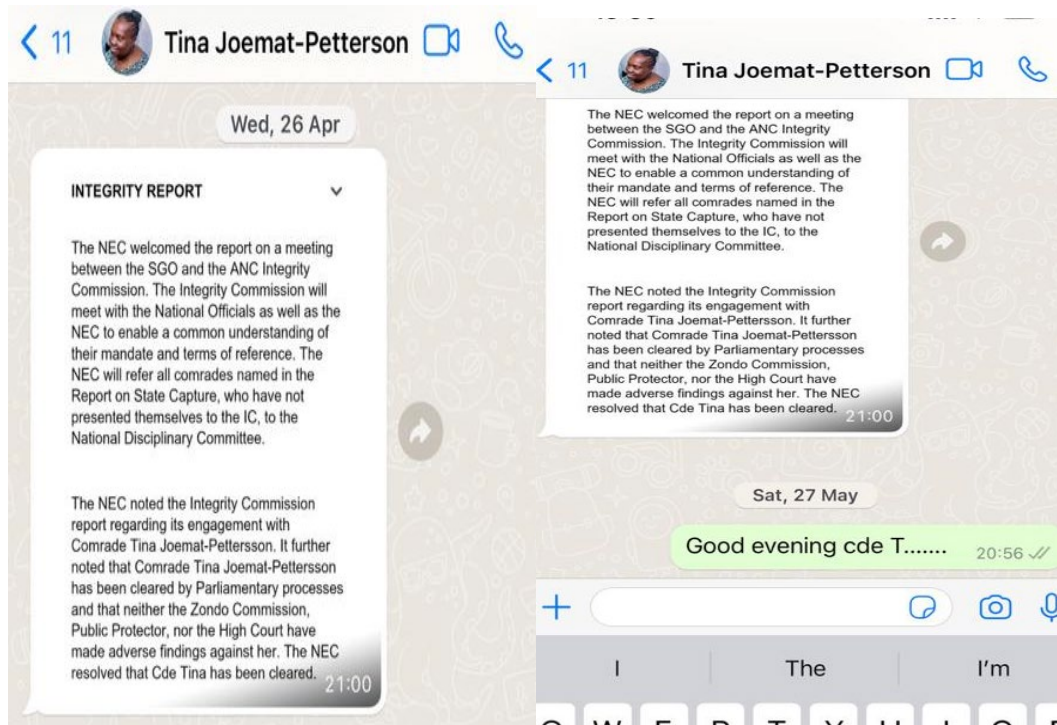
186.1. I did not meet privately with Ms Joemat-Pettersson during the period of the bribery allegations. My interactions with her were limited to me seeing her and reprimanding her at the hearing of 15 March 2023 and seeing her at the ANC Lekgotla on Saturday 25 March 2023 when she chaired a committee of the Peace and Stability cluster of the ANC during a breakaway session. That session was attended by more than 40 ANC members. I had no conversation with her nor was I alone with her at any point during that session or indeed the entire Lekgotla. In fact, on that day, she left the session early, handing over the chair to another comrade on the basis that she was attending a bereavement as I recall. I have no recollection of seeing her at any other time during the Legotla or in Parliament thereafter and certainly not in any other forum or place whether socially or formally.

186.2. I have had no telephonic conversations with Ms Joemat-Pettersson during this period or even before. This will be borne out by my phone records. My WhatsApp communication shows that I did not answer or return her call on 17 March 2023, nor did I even respond to the fact that she had called me.

186.3. My WhatsApp Communication, apart from what I have captured in paragraph 37 above was limited to the following (which had nothing to do with the Enquiry):







187. Again, it is patently obvious that I did not engage with Ms Joemat-Petterson. Whilst she tried to secure a meeting with me in connection with the pending ANC Western Cape Elective Conference to discuss what was happening at the level of Branch General Meetings (or BMG's) I did not even bother replying. She in fact notes in her message that *"you guys are not briefing me."* Further when she sent me a copy of an ANC Integrity Report containing a finding in respect of her conduct, I yet again did not respond.
188. The only time during this entire period that I sent her a message was on Saturday 27 May 2023 when I became aware of the allegation as I wanted to try to get clarity on the message from Mr Wa Afrika that I was being implicated in something I was not even aware of. She did not respond, and I did not bother to take it any further.
189. In making my decision not to recuse myself based on these allegations I have been fuelled by my unwavering belief that there is no truth or merit to the allegations coupled with my concern to uphold public interest by preventing unnecessary and unwarranted delays in the process.
190. In addition, the PP, while claiming an apprehension of bias, has made an application which raises several concerns on my part (and I submit any reasonable person would feel similarly):

- 190.1. The alleged conduct arose in March 2023 yet the PP's husband (who is understandably her ardent supporter and who has attended almost every meeting of the Enquiry) apparently only brought the matter to her attention on 9 May 2023.<sup>33</sup> Even at that stage the PP does not encourage Mr Skosana, with the urgency such a matter deserves, to report it to the SAPS immediately. It bears mentioning that in her application the PP is vague about when she learnt of the allegations mentioning the month of May instead of referring to a specific date.
- 190.2. Mr Skosana makes no effort to involve law enforcement authorities or take legal advice to ensure he obtains irrefutable evidence. Instead, he filed a complaint with the SAPS on 15 May 2023 only and even then, his affidavit is vague, and he does not hand in all evidence at the time. Despite numerous alleged meetings and conversations, he seems simply unable to obtain any direct evidence (or even indirect at that). One must question why Mr Skosana was not able to easily and readily collate the evidence at his disposal for immediate handing over to the SAPS on 15 May 2023 and for the PP to hand over to the Ethics Committee or even to me for purposes of this Application.
- 190.3. The PP only writes to the Speaker on 23 May 2023, again inexplicably allowing valuable time to pass without acting despite there being activity in relation to the hearings in this period as evidenced by correspondence. In fact, she appears before the Committee on 17 May 2023 and remains mum about these allegations- something I cannot accept that a person in her position could reasonably do.
- 190.4. The legal team was clearly advised by Mr Skosana of Ms Joemat-Peterson's advice to call for an audit, this is the only logical explanation as to why the issue arose at that point and on the basis of 'information' the legal team admitted to having. To their surprise (or perhaps not) I refused to acquiesce.
- 190.5. The story is broken by a journalist who is seemingly viewed in positive light by the PP and her legal counsel and differently by many others.
- 190.6. The PP takes months to file her recusal application doing so as we edge closer to the end of her term rather than dealing with the matter swiftly.

---

<sup>33</sup> This is in accordance with a statement that Mr Wa Afrika attributes to Mr Skosana in an article titled "New Twist in MPs extortion scandal" accessible at <https://www.iol.co.za/the-star/news/new-twist-in-mps-extortion-scandal-bf33ef1b-e157-4409-a186-25c9fd45fb4c>

190.7. There is no direct evidence whatsoever linking me to the allegations though same could have easily been obtained given the extent of time during which these allegations unfolded.

191. As evidenced by my response to the Application, I have nothing to hide and have provided a full disclosure. This is to be contrasted against the PP who has not provided all the information at her disposal as indicated in the letter of today, 24 July 2023 despite my repeated requests to be provided with all the alleged recordings.<sup>34</sup>

## **SECOND GROUND: THE CHAIRPERSON IS A SUBJECT OF A PENDING INVESTIGATION BY PARLIAMENT'S ETHICS COMMITTEE**

192. I have noted the correspondence between the Speaker and the PP but make no comment in respect thereof, our roles being distinct from each other.

193. I deny that a registration of a complaint by the Registrar or an investigation or the holding of a hearing amounts to *prima facie* evidence against me. The Ethics Committee, acting on the advice of the Registrar, will determine, after a preliminary investigation if the complaint, amongst others is (1) frivolous, vexatious or unfounded; (2) warrants a specific finding without the need for further investigation or a hearing; (3) requires further investigation or (4) requires a hearing due to a dispute of fact. In my understanding a hearing may be held even in the absence of *prima facie* evidence based on a dispute of fact (for example where two persons present opposing versions of the same event).

194. In any event nothing precludes me from acting in the capacity of a member or chairperson of the Committee whilst a complaint against me is being processed by the Ethics Committee. There is no NA Rule which provides that a member against whom a complaint has been registered must be relieved of their position. A suspension of a member is limited to cases where the NA has resolved, based on a finding and recommendation of the Ethics Committee, that a member should be suspended<sup>35</sup>. The Ethics Committee has made no such finding and so nothing is presently before the NA in this regard.

---

<sup>34</sup> See letter referenced as Item 250 in Annexure "A"

<sup>35</sup> See clause 10.7.7 and 10.7.8 of the Code of Ethical Conduct and Disclosure of Members Interests available at <https://parliament.gov.za/code-conduct>

195. In addition, there is nothing else in law which prohibits me from acting as a member of Parliament. On the contrary, section 47 of the Constitution provides, in relation to criminal offences, that a person is only illegible to serve as a member if:

*“convicted of an offence and sentenced to more than 12 months imprisonment without the option of a fine, either in the Republic, or outside the Republic if the conduct constituting the offence would have been an offence in the Republic, but no one may be regarded as having been sentenced until an appeal against the conviction or sentence has been determined, or until the time for an appeal has expired. A disqualification under this paragraph ends five years after the sentence has been completed.”*

196. I deny that I will not bring an objective or impartial mind to bear under the circumstances.

197. I deny that I will be a judge in determining whether I am guilty of the allegations being made against me – these will serve before properly mandated forums which will take such decisions.

198. However, it is trite that in a recusal application, the person against whom recusal is sought must respond to and make a decision on the matter. In my case, it will go a step further as the Committee may still remove me as Chairperson if it so elects.

199. It also bears mentioning that the legislature is a political creature. If it were that every time an accusation is made against a member of Parliament, that they had to step down or recuse themselves or be suspended pending the outcome thereof, it would lead to an untenable situation where the persons acting as representatives of the electorate were constrained in their duties thereby stifling representative democracy and handicapping Parliament.

200. Lastly, I am mindful and committed to my duty in terms of the Ethics Code to, amongst others, uphold the law; act in accordance with the public trust placed in me, avoid a conflict of interest and maintain public confidence and trust in the integrity of Parliament and its processes. I stand firm that I have chaired the Enquiry in accordance with my ethical obligations.

### **THIRD GROUND: THE CHAIRPERSON IS A SUBJECT OF A PENDING POLICE INVESTIGATION**

201. I note that a case has been opened against me by Mr Skosana with the SAPS on 15 May 2023.

202. To date I have not been charged with any crime. However, I will co-operate fully with any criminal investigation.
203. For the reasons indicated in my consideration of the Second Ground I deny that legally I am no longer able to continue as a member of the Committee or as its Chairperson.
204. I note further that allegations alone cannot amount to *prima facie* evidence nor does the mere act of laying a criminal complaint and the instituting of a subsequent investigation by a law enforcement authority mean that there is a *prima facie* case to be answered. On the contrary, the very purpose of the investigation is to determine the question and if affirmative to prosecute a suspect. That prosecution process in turn, not unlike this Enquiry, is aimed at determining the veracity of the allegations which may or may not result in a conviction. Similarly, the NA on receipt of the Motion to remove the PP, first sought to establish (through the Independent Panel) that there was *prima facie* evidence of misconduct and/or incompetence before proceeding with the Enquiry. What the PP therefore asks of me is akin to requesting her to step down based on the mere tabling of a motion to remove her.
205. I deny that the PP will not receive a fair hearing or that she has to date not received a fair hearing.

#### **FOURTH GROUND: DISPARAGING MEDIA STATEMENTS AND INTERVIEWS**

206. I deny that I have made any false statements against the PP. The record of correspondence between the PP and/or her legal team and I is available for public consumption and is self-explanatory.
207. The PP has chosen to conduct a trial by media as it were and continues to bring my credibility and the integrity of the process into question going as far as attributing blame on me for the death of Ms Joemat-Pettersson. I reserve my right to consider the appropriate recourse at the appropriate time. I have never sought or instigated any media attention but have merely responded where necessary. Media statements issued by the Committee are done so in pursuance of our public participation obligations. Similarly, the PP has been vocal in the media and social media since the inception of the 194 proceedings as have been other political parties and members who have openly supported her.

208. I have made no statement in respect of the merits of the charges against the PP, the credibility of any witness or the value of any evidence adduced. I continue to bring to bear an open mind and will do so during any deliberations and consideration of a report. However, I am answerable to the public who has called into question the length of proceedings, the ongoing delays, and the failure of the Committee to produce a report for tabling in the NA.

**FIFTH GROUND: COMMITTEE AND OR CHAIRPERSON IS PROCEEDING DESPITE PUBLIC PROTECTOR'S LACK OF LEGAL REPRESENTATION**

209. The alleged "lack" of legal representation has been dealt with extensively in correspondence<sup>36</sup> and in Committee meetings since 31 March 2023. For the sake of completeness, I attach the transcripts of the following meetings where the issue of legal representation was dealt with:

- 209.1. 31 March 2023- Annexure "C"
- 209.2. 3 April 2023- Annexure "D"
- 209.3. 8 May 2023- Annexure "E"
- 209.4. 17 May 2023- Annexure "F"
- 209.5. 2 June 2023- Annexure "G"
- 209.6. 7 June 2023- Annexure "H"
- 209.7. 9 June 2023-Annexure "I"

210. The aforesaid, amongst other things, clearly show that there has been no denial to the right of legal representation. Rather the decision to proceed with the Enquiry is based on the failure of the PP to avail her right to legal representation (and especially to brief counsel), notwithstanding that a substantial additional amount of R4 Million has been made available to her and her being fully aware of the fact that the Committee is operating cognisant of the date of 16 October 2023, after which the question of removal becomes moot.

211. The PP's posture has been to object to or frustrate all attempts to facilitate her access to legal assistance with the result that the continuation of proceedings has been stifled. Her objections are never complemented by viable alternatives or proposals. For example, she has not secured her legal counsel despite the deadlines she was to meet and never asked for an extension in

---

<sup>36</sup> In this regard Annexure "A" may refer to correspondence that is not necessarily referred to in the body of this response. I also note that there has been a great deal of correspondence between the PP and the PPSA on issues relating to her legal representation.

respect of any single deadline but merely sought to dismiss it as illegal. This all whilst insisting that the charges are spurious and baseless but maintaining that she wishes to give her side of the story (which I note is meant to be contained in her submitted statement- oral evidence being only for purposes of amplifying where necessary). The frustration of the process has meant that the Committee has been placed in an untenable situation where, despite its duty to hold the PP to account, it is being prevented from exercising its Constitutional duty. It can be argued that the failure of the PP to cooperate is an abdication of her responsibility to account to Parliament.

212. Whilst the failure of the PP to avail her right to legal representation is borne out by the records referred to above, I emphasise the following (it being noted that Annexure "A" contains the timeline and references to applicable records):

212.1. The PP was informed on 1 March 2023 that the PPSA would no longer be able to fund her legal representation beyond 31 March 2023, having only ever committed to cover the "reasonable expenses" in respect thereof. Due to amongst others, the PP taking ill, her evidence was only completed in respect of her Part A Statement and not her Part B Statement.

212.2. The Committee held its last hearing on 31 March 2023 being the date the PPSA terminated its initial funding to the PP for legal representation. After this, as Chair, I made various attempts to secure additional funding in the hope that the PP was doing the same and was equally committed to resuming proceedings.

212.3. On 2 May 2023 the PPSA wrote to the PP informing her that it has made an additional amount of R 4 Million available for purposes of the completion of the Enquiry having already spent in excess of R30 Million by that stage. The PP was told in that letter that it was her responsibility to manage those funds. I wrote to the PP informing her that we would resume on 8 May 2023 that being sufficient time to arrange for the return of the legal team.

212.4. Notwithstanding the above on 4 May 2023, the Committee, as well as the President; PPSA and Ministers of Justice and Finance, were served with an urgent application to the Constitutional Court by the PP (represented by her personal attorneys) to resolve the issue of who bears the responsibility to pay the PP's legal fees and to deal with a complaint that as Chair I permitted the evidence leaders to brief the Committee on litigation records in the CR17 and SARS matters.

- 212.5. On 8 May, the PP attended the Committee without her legal team and informed the Committee that their brief has been terminated due to the letter of the PPSA dated 31 March 2023 and that she was not able to brief Seanego Inc. despite the PPSA giving the go ahead as she does not handle finances.<sup>37</sup> I agreed to postpone the meeting for a full week to Monday, 15 May 2023 to allow the PP to address her concerns with the PPSA.
- 212.6. Between 9 and 11 May 2023 I communicated with the PPSA which maintained the position that the PP was responsible to manage the R4 Million and provide instructions to Seanego Inc. Accordingly, I again postponed the hearings until 17 May 2023 to allow the PP the time and space to brief her legal team.
- 212.7. On 15 May 2023 Seanego Inc. wrote to the Committee indicating they are no longer on brief. They refused to attend the Committee to explain the reasons for same raising legal privilege.
- 212.8. On 17 May 2023, the PP again appeared without any legal representative. She refused to waiver her legal privilege to enable the Committee to assist in securing the return of Seanego Inc.<sup>38</sup> In the circumstances the PP indicated that her preference would be for the PPSA to bring Chaane Attorney's on board as they are an attorney on the panel of attorneys used by the PPSA. The meeting was adjourned for purposes of ensuring Chaane could be briefed as the Attorney of Record. At this stage the Solicitor-General (SG) also offered to assist the PPSA with outsourcing the services of Chaane Attorneys. The SG raised important issues about cost containment including suggesting that the legal team be reduced or streamlined and re-negotiating their fees. I wrote to the PPSA alerting them to the PP's request.
- 212.9. On 23 May 2023, Chaane Attorneys were appointed as the new attorneys of record for the PP. Chaane indicated that Adv Mpofu, SC would not accept the brief unless the two juniors were also briefed and then later on informed the State Attorney that a request for an increase in fees for all three counsel had been received. Thus, contrary to the advice of the SG instead to implement cost containment measures, costs were increased further shrinking the R4 Million rand and on the face of it presenting obstructions one at a time. The Secretariat and Legal Adviser met with Mr Chaane and provided access to the DropBox and offered assistance in onboarding- making a point

---

<sup>37</sup> See Transcript of 8 May 2023 attached as Annexure "E"

<sup>38</sup> See transcript of 17 May 2023 attached as Annexure "F"



of explaining in writing and in person that large amounts of records were duplicated; some were entirely irrelevant and had not been relied on and the proceedings were far advanced.

- 212.10. On 2 June 2023 the Committee met to receive an update on housekeeping matters. The Committee agreed to proceed and resume its hearings (given that Chaane was now on brief). A proposal was raised by a member to the effect that when we resume hearings, we dispense oral evidence on the PP's Part A statement by allowing members and evidence leaders to put questions to her before she proceeds to be led on Part B. This would have allowed for staff to continue with drafting the first part of the Report as well as providing the PP with an opportunity to respond to any issues raised by the evidence leaders in their presentations on the court records in CR 17 and SARS. I communicated with the PP the same day indicating we would resume on 7 June 2023 and allowing her an opportunity to comment on the proposal of splitting the evidence in accordance with the manner in which her statements were split by 4 June at 13h00.
- 212.11. On 4 June 2023, a few hours after my 13h00 deadline, Chaane Attorneys indicated they cannot brief counsel until they familiarise themselves with the record (that remaining the status quo until today) and clarity is provided on the R4 Million allocation. I responded noting they have not provided their views on my proposal of splitting the evidence as per the PP's 2 statements and extended the deadline to Sunday 5 June 2023.
- 212.12. However, on 5 June 2023, I was informed that Mr Chaane had taken ill indefinitely and could not be replaced by anyone else in his firm, "*given the delicate stage and content*" of the matter and accordingly the content of my letter could not be dealt with. I responded that same night indicating in detail my reasons for ruling that the splitting of evidence in two parts will be allowed.
- 212.13. On 6 June the Secretariat wrote to the SG indicating that despite many follow-ups Chaane had yet to brief counsel which may delay the process. The SG expressed concern in his response about the fees of counsel having increased and proposed, subject to the PPSA agreeing, that Chaane Attorneys (in light of the indefinite illness) be replaced by the State Attorney Pretoria. The PPSA agreed to this and the brief of Chaane was accordingly terminated in favour of the State Attorney, Pretoria.

The PP wrote to me personally on 6 June 2023 objecting to the proposal to split her evidence (saying I was *functus officio* and as I had previously denied the request from Adv Bawa I could not now agree to it) She raised further her objection to the PPSA asserting that she would be expected to cover legal costs beyond the R4 Million. She noted that in her view the charges against her are “*spurious and baseless*” and there is a “scheme” to “*manipulate*” evidence but provided no proof in support thereof. She also indicated she intended to move an application for my recusal if I failed to voluntarily recuse myself.

212.14. On 7 June the Committee resumed, but once again the PP was without legal representation forcing me to postpone the hearings yet again to 9 June 2023. During the meeting, the Committee was briefed in respect of the recent correspondence and learned that the mandate of Chaane Attorneys had been terminated by the SG and replaced with the services of the State Attorney, Pretoria which would also result in a saving of approximately R25 000 per day. The PP vehemently objected to this citing a patent conflict of interest.

212.15. On 9 June 2023, the PP appeared with Mr Chowe of the State Attorney Pretoria to raise preliminary issues including the patent conflict of interest and the reasons why the State Attorney cannot brief counsel or act on her behalf. I knew to expect this due to interactions between the Secretariat and Mr Chowe the day before and prior to the meeting commencing. It was clear to me that there was a deadlock and despite the Committee’s best efforts the PP refused to allow hearings to continue. As such I proposed a new way forward as captured subsequently in “Addendum 2 to the Amended Directives of 28 July”.<sup>39</sup> The Committee having so agreed (despite the PP’s objections) has since then proceeded in terms of this new approach with the first due date in respect of the PP being 19 June 2023.

212.16. On 14 June 2023, the mandate of Chaane was reinstated due presumably to the protests of the PP. However, despite more than 5 weeks since then, the PP has failed to brief or cause counsel to be briefed on the merits and Chaane maintains they are still familiarising themselves with the record. They do however insist that the decision not to brief counsel lies with them and not the PP. I reject this outright. Chaane Attorney’s and/or the PP’s failure to brief counsel is absurd. Counsel has the requisite knowledge and experience to more than fully represent and assist the PP in these inquisitorial

---

<sup>39</sup> See Annexure “J”

proceedings before the Committee and would hardly be reliant on Chaane Attorneys to the extent that they are not able to accept and continue with their brief until Chaane Attorney's has familiarised themselves with the record. Chaane Attorney's and the PP continue to hide behind vague ethical responsibilities of attorneys towards their client yet there is no regard to the PP's obligations to account to Parliament or the duty of an attorney to uphold the Constitution, In any event I deny that there is any legal obligation on Chaane Attorney's to be fully vested in the matter for purposes of briefing counsel under the circumstances as this simply cannot be in the best interests of their client. Previously, Adv Mpofo, SC has obtained instructions directly from the PP in the Committee, without any resort to the attorney. I am not suggesting that Mr Chaane should not have familiarised himself with some salient documents, but he rightly ought to be guided by counsel as to what is necessary, given where the process is at, and the financial constraints.

212.17. Chaane Attorneys and/or the PP have caused further delays by seeking the permission of the State Attorney and/or the PPSA to do things in circumstances where such permission is not necessary – for example to brief counsel to bring a recusal application. There is no need for the State Attorney or the PPSA to involve itself in the PP's issuing of instructions to the legal team in respect of the Enquiry. Certainly, it has not been the case that when the PP brought submitted previous applications (such as the first recusal application or the adjournment application) that she sought the permission of the PPSA to do so, it being clear that the Motion is a matter against the PP personally and not the PPSA.

213. The cumulative effect of the above is that each objection or complaint eats into time and limited funds. I remain firmly of the view that the Committee is only bound to afford the PP the right to be legally represented but it is up to her to take up the right in a manner which is cost effective and reasonable. To all intents and purposes, the Committee has done everything it can to assist the PP in exercising her right to legal representation in a reasonable manner, but these efforts have yielded no fruit.

214. In charting a new way forward (supported by the Committee), I had regard to the following as captured more fully in my letter of 13 June 2023:<sup>40</sup>

---

<sup>40</sup> Item 234 of Annexure "A"

- 214.1. Fairness requires that, the PP as the subject of this Enquiry (and who has been under suspension with full benefits for more than a year) has the right to have the Enquiry brought to finality rather than the allegations hanging forever as a cloud over her. If the NA were to remove her on grounds she rejects as irrational or based on a process that is unprocedural, she will have the right to challenge this in a court of law.
- 214.2. The Committee is bound by the Constitution and the NA Rules which require it to complete its task diligently, in a fair manner and within a reasonable timeframe, without delay. In the circumstances the process in the amended directives is the only viable option which allows for the process to be concluded in a manner that is fair to all the role-players.
- 214.3. The Committee was not obliged to await the outcome of the application to the Constitutional Court on who bears the responsibility of paying the PP's legal fees that application for direct access was in any event dismissed). There is no interdict preventing the Committee from completing its work as per its Constitutional mandate.
- 214.4. The PPSA has firmly indicated that it will not avail any further funds beyond the ring-fenced amount of R4 Million Rand. In turn the PP has indicated, in no uncertain terms, that she is not willing or able to cover any expenditure that may be incurred in respect of her legal fees. It is both unreasonable and ludicrous to suggest that the provision of public funding to pay for the PP's legal representation must be unlimited. To this effect the PPSA has made it clear that the responsibility of cost containment in respect of fees is to be managed by the PP and as Chairperson I have sought to ensure that the process can be duly completed in this time.
- 214.5. The new approach- which reduces certain aspects to writing but also provides an opportunity for oral engagement was devised precisely because it had become clear that the next obstacle the Committee would reasonably face was the unavailability of counsel to return to hearings within the program. In fact, Adv Mpofo, SC had communicated same to Mr Ngoma in a WhatsApp message after the new approach was adopted (which message incidentally also supports the fact that counsel has been awaiting a brief on the merits of the matter and cannot, as 'creatures of instruction' participate in the matter until duly briefed). The message which was sent on 19 June 2023 to a group on which I am told the evidence leaders, the PP's counsel, Chaane Attorneys and Ms Ebrahim are part of read as follows:

*Good evening Thembinkosi*

*We do not mean to ignore your messages but unfortunately the counsel team has still not been placed on brief since the unfortunate termination of our mandate on 31 March 2023, the resultant withdrawal of Seanego Attorneys and more recently due in part to the fiasco from PPSA/State Attorney regarding the on-off-on termination/appointment of HM Chaane Attorneys.*

*Please kindly try to get an update from PPSA/State Attorney/Chaane as to whether and if so when we might expect to receive our brief/s so that we may receive instructions and participate in this group and/or other formal engagements with the process and interact with all proposals, counter-proposals and “deadlines” put on the table by all interested parties.*

*Until then our professional hands are tied. As advocates, we are creatures of instructions.*

*In the absence of any contrary instructions we are naturally also carrying on with our other professional or personal assignments and commitments which have arisen and accumulated over the past 3 months.*

*Kindest regards*

*DC Mpofu SC*

214.6. The approach of providing questions of members and evidence leaders in writing rather than orally can hardly be said to be unfair. The Constitutional Court made it clear that the PP’s legal representatives cannot answer questions on her behalf and as such their role during the answering of questions by the PP would have been limited to raising procedural issues.<sup>41</sup> Therefore on the contrary, written questions bring an added advantage of allowing the PP to respond outside of the pressure that an oral hearing, in full public view, may cause. It gives her additional time to carefully consider responses and ensure that she answers fully and satisfactorily unless where a valid reason prevents her from doing so. It was further intended to save costs as a full legal team would not need to be present physically all day, thereby incurring full daily fees and disbursements. I am of the view that PP herself is the subject of the Motion and has the

---

<sup>41</sup> See Para 45 of *Speaker of the National Assembly v Public Protector and Others; Democratic Alliance v Public Protector and Others* (CCT 257/21; CCT 259/21) [2022] ZACC 1; 2022 (3) SA 1 (CC); 2022 (6) BCLR 744 (CC) (4 February 2022)

requisite personal knowledge of the matters to respond personally, with input from the legal team where necessary to guide her to particular evidence or testimony.

214.7. It is my understanding that *audi* does not require that the Committee be addressed orally especially where opportunities for same were built in but have become unworkable due to endless delays beyond the control of the Committee. The new procedure afforded the PP multiple opportunities to provide evidence, answer questions and address submissions to the Committee in writing or to answer orally and make an oral closing statement.

## **SIXTH GROUND: THE ROLE OF MS JOEMAT-PETTESSON AS A MEMBER OF THE COMMITTEE**

215. I deny that there is any direct evidence implicating any existing members of the Committee in the bribery, corruption and extortion allegations and there is therefore no rational basis on which a reasonable person can perceive that the multi-party Committee is not capable of bringing a neutral mind to bear on the proceedings. This is evidenced by the strong and unwavering support for the PP (in relation to these allegations and other questions that have served before the Committee) indicating firmly that different members view issues differently.

216. If the Committee were to be reconstituted in its entirety it would become impossible for Parliament to hold the PP to account. Firstly, this will result in additional time being required- such time simply not being available, and the PP will accordingly not be held to account. Secondly, smaller parties may not be able to fill their allocated seats with other members. By way of example there are parties with only 1 seat meaning those parties will be deprived from participating.

217. In any event, the Committee is not a decision-making panel. In terms of the NA Rules, the Committee must conduct an enquiry to establish the veracity of the charges and make recommendations to the NA in respect thereof. The NA in turn may, based on the content of that report choose whether to remove the PP.

218. Further, I note that Ms Joemat-Pettersson (as is supported by the alleged WhatsApp communication and the Application itself) was not very active in the Committee. In fact, she did not pose a single question to the PP or any witness and did not participate in any deliberation or discussion of any issue before the Committee. It is thus entirely unclear which decisions ought to be discarded as I can think of none where she played any real role.

## **SEVENTH GROUND: THE ROLE OF MS MAJODINA AS THE ANC CHIEF WHIP**

219. I deny the allegation that Ms. Majodina “remotely controls” the Committee. Ms. Majodina is not a member of the Committee and notwithstanding her right, in terms of NA Rule 185 to attend meetings and participate she has not done so. It is unclear how her role as the Chief Whip of the ANC nullifies the proceedings of the Committee, wherein the ANC is but one of 14 parties represented.
220. As Chairperson, I am mandated in terms of the NA Rules to preside over meetings which would include the duty to maintain order in meetings and ensure that the Committee delivers on its mandate. Where necessary I am empowered to act on behalf of and in the best interest of the Committee. It is therefore unclear how Ms. Majodina, rather than I direct proceedings of the Committee.
221. As Chairperson I am not able to provide information on whether Ms. Joemat-Pettersson will be replaced by the ANC as a member of the Committee or not. That is the prerogative of a party which has a vacancy and should appropriately be addressed to the ANC itself.
222. It is nevertheless useful for me to point out the following with reference to the NA Rules:
- 222.1. The Committee consists of 36 members (it being the first time in the history of the democratic Parliament that every political party represented in the NA is represented in a committee), the allocation of which was determined by the Speaker in terms of NA Rule 129AB.
- 222.2. The allocation of seats is as follows:
- ANC- 19**
  - Democratic Alliance- 4**
  - Economic Freedom Fighters- 2**
  - Inkatha Freedom Party- 1**
  - African Christian Democratic Party-1**
  - National Freedom Party- 1**
  - Freedom Front Plus- 1**
  - United Democratic Movement- 1**
  - Good Party- 1**
  - African independent Congress- 1**
  - Congress of the People- 1**

**Pan Africanist Congress of Azania- 1****Al-Jamah- 1**

- 222.3. NA Rule 162 provides that a quorum for decisions requires a majority of members (i.e., 50 plus 1%). This equates to 19 members.
- 222.4. A Party may appoint alternates in terms of NA Rule 156 to replace members who are absent or where a vacancy exists. It is not compelled to do so.
- 222.5. The Chairperson, in the absence of a quorum, may co-opt members from the Party whose seat is not filled by the designated member in the absence of the alternate member.
223. Accordingly, there is no legal impediment to the Committee functioning without a full complement of 36 members and the replacement of a member is primarily the prerogative of a party. Those parties who fail to replace members do so to their own detriment. If it happens that the Committee does not have a quorum due to insufficient seats being occupied, that is a matter I will address.

***Ad Para 106 to 116***

224. It is not necessary for me to deal with the principles of bias, these having adequately been address during the consideration of the first recusal application, where the Committee in addition to the oral submission of Adv Mpofo, SC on these matters also had the benefit of an independent external opinion from counsel, Mr Ismail Jamie, SC.
225. I deny that I am hostile to the PP or to her legal representative. I have sought to ensure, as Chairperson, that the Committee fulfills its constitutional mandate. I have done so in the face of repeated delays and obstacles. It is my role to interrogate same and ensure that it does not prevent the Committee from holding the PP to account. My posture is not indicative of any bias but rather is in keeping with the standard expected from a presiding officer who, despite a mountain of challenges, must ensure that the process is completed. I am confident that my actions have always been fair and rational. Where my conduct may have been viewed by the legal team as a show of irritation or impatience, the Constitutional Court has indicated that same does not give rise to a reasonable apprehension of bias.<sup>42</sup>

---

<sup>42</sup> Bennet v Absa Bank 2011 (30 SA 92 (CC)



***Ad Para 117 to 121***

226. I deny that the 2<sup>nd</sup> Recusal Application must be granted and accordingly reiterate my decision not to recuse myself.
227. All in all, I have no doubt that I have been fair, reasonable, firm and balanced in seeking to ensure that the Committee discharges its fundamental constitutional function. There is therefore no substantive merit in the recusal application. I am confident that at every stage of this process I have acted with integrity and have sought to ensure that the process is fair – to the PP, to witnesses, to members, the evidence leaders and the public alike. It would be remiss for any person to ignore the public interest in this matter and the fact that the costs associated with it are carried by the public.
228. The Committee can remove and replace me as Chairperson if it so wishes. This very question will duly serve before the Committee.
229. The replacement of myself and/or Ms. Joemat Pettersson with another member, is a decision of the ANC and does not fall within my powers as Chairperson. To that extent it finds no application in the 2<sup>nd</sup> Recusal Application.

**CONCLUSION**

230. I will not deny that I have found the allegations against me to be hurtful and deeply offensive given my dedication and commitment to conducting a fair process. In addition, I have always considered myself as a person of integrity who lives his life based on the principles of fairness, integrity, honesty, and strong civic responsibility. However, I will not allow this matter to adversely affect the way I conduct proceedings and commit to ensuring the process is fair.
231. It is an ironic and a strange turn of events that I, rather than the person who is the subject-matter of the Enquiry, is made to answer for my alleged conduct (which allegations are devoid of merit) in this manner. However, I will not allow myself to be distracted from the important work that I and my fellow members of the Committee have undertaken to do.
232. The proceedings have taken a toll on all persons attentively involved herein- it has required hours and hours of work at great personal sacrifice. However, I have performed to the best of my ability, and I go forward confident that recusal will not serve the best interest of the Committee, Parliament or the public interest at this critical juncture.

233. In the circumstances, based on the reasons provided in this response together with the supporting documents attached hereto, I have determined that there is no merit in the allegations and accordingly decline to recuse myself.

Signed Electronically

**Mr. Qubudile Richard Dyantyi**

**Chairperson of the Committee on s194 Enquiry**

**24 July 2023**

DATE	DESCRIPTION
<b><u>MARCH 2023</u></b>	
1 March 2023	<p><b>1. Letter from Acting Public Protector to PP titled "Legal Services to Adv B Mkhwebane during the proceedings before the Section 194 Committee" (Item 173)</b></p> <ul style="list-style-type: none"> <li>• Budget of the PPSA is currently under severe pressure because of the escalating costs of the section 194 proceedings, as well as general litigation fees and costs, including expected bills of costs in litigation matters where costs orders were issued against the PPSA.</li> <li>• Conditions of service, as preserved in terms of the Presidential Minute containing the conditions of suspension, do not contain any "benefits" that could be construed as a right or entitlement to legal representation and assistance by the PPSA from the public purse, particularly in pursuit of what is effectively, the PP's personal interest in the post of Public Protector.</li> <li>• There is no judicial authority/precedent imposing an obligation on the PPSA to fund the PP's right and access to legal representation in the section 194 proceedings.</li> <li>• PPSA will not be able to extend its funding commitment for the provisioning of legal services for the purpose of the Section 194 proceedings, beyond the current financial year ending on 31 March 2023.</li> </ul> <p><b>2. Letter from Chair to Seanego Inc, titled, "Testimony of Prof. Madonsela" (Item 172)</b></p> <ul style="list-style-type: none"> <li>• Due to a dispute between PP and Committee as who would lead Prof Madonsela (her having been called by the PP), an additional opportunity is granted to the PP to put questions to her. If such opportunity is availed the PP's own statement will fall due on 9 March 2023 instead of 7 March 2023 thus affording her additional time.</li> <li>• However, the Chair noted that there was an expectation of a lengthy statement being prepared and offered the PP the opportunity to submit her statement in 2 parts with the first part due on 9 March and the second on 14 March 2023.</li> </ul>
5 March 2023	<p><b>1. Letter from Seanego Inc. to Chair titled, "Re: Your Letter Dated 1 March 2023" (Item 175)</b></p> <ul style="list-style-type: none"> <li>• The PP agrees 'for the sake of progress' to lead Adv Madonsela first, though maintains this should be done by the evidence leaders.</li> <li>• Due to changes in the schedule coupled with the WCHC hearing on 13 March 2023, the PP's statement cannot be submitted on 9 March 2023 and will be submitted on 20 March 2023 followed by her testimony commencing on 27 March 2023 instead of 15 March 2023 as programmed.</li> </ul>

DATE	DESCRIPTION
7 March 2023	<ol style="list-style-type: none"> <li>1. <b>The Committee deliberates on the issue of the extension for submission of the PP's statement and rescheduling of her oral testimony to 27 March 2023 as requested but does not agree.</b></li> <li>2. <b>Letter from Chair to Seanego Inc titled "Your letters of 28 February 2023; Sunday 5 March 2023 and 7 March 2023" (Item 177)</b> <ul style="list-style-type: none"> <li>• Chair communicated that an extension is granted for submission of the statement until 14 March at 17h00 but no extension is granted in respect of oral evidence and the PP's oral testimony will commence on 15 March 2023 as programmed.</li> </ul> </li> </ol>
8 - 15 March 2023	<ol style="list-style-type: none"> <li>1. <b>The Committee does not sit during this period while the PP continues with preparation of her statement and attending to the preparation for her review application in the Western Cape High Court, such additional time having been granted to her.</b></li> <li>2. <b>On 13 March 2023 the WCHC hears the review application brought by the PP against the Chair in respect of the recusal of the Chair and Mileham, MP amongst other issues.</b></li> </ol>
14 March 2023	<p><b>The PP submits and uploads Part A of her statement on DropBox notwithstanding that the statement in full was due on this date, an extension having been granted.</b></p>
15 – 16 March 2023	<ol style="list-style-type: none"> <li>1. <b>Day 1 and 2 of PP's testimony, led by Adv Mpofu, SC.</b></li> <li>2. <b>See transcript of 16 March 2023 attached as Annexure "B" re Chair's interaction with Ms Joemat-Pettersson.</b></li> </ol>
17 March 2023	<ol style="list-style-type: none"> <li>1. <b>Letter to Seanego Inc from Chair titled, "Submission of Balance of Public Protector's Statement" (Item 178)</b> <ul style="list-style-type: none"> <li>• The chair accepts that there may have been a misunderstanding in respect of the initial proposal that the statement could be submitted in 2 parts and agrees that the remainder can be submitted by Friday, 24 March 2023.</li> <li>• Agrees to accommodate Adv. Mpofu, SC, by not conducting hearings on Monday, 20 March 2023 and Wednesday 22 March 2023 due to him being otherwise engaged in a non-related matter. Hearings would therefore resume on Thursday, 23 March 2023 at 13:00 to allow him to travel back to CT (notwithstanding his informal request not to sit that day)</li> </ul> </li> </ol>
22 - 27 March 2023	<ol style="list-style-type: none"> <li>1. <b>PP booked off sick, having duly submitted a sick certificate for this period (sick certificate treated as confidential). Co-incides with postponement application that was refused.</b></li> <li>2. <b>On 23 March Committee meets (non-hearing day) and agrees with decision of Chair to postpone hearings and reschedule PP's oral evidence from 28 March to 31 March 2023.</b> <ul style="list-style-type: none"> <li>• Committee expresses concerns re legal funding; undertaking to engage stakeholders and to sit extended hours to make up lost time (See Parliamentary Monitoring Group Transcript for 23 March 2023 attached as "<b>Annexure K</b>")</li> </ul> </li> </ol>

DATE	DESCRIPTION
	<p><b>3. Letter to Seanego Inc from Chair, “Submission of Sick Certificate and Continuation of Programme” (Item 179)</b></p> <ul style="list-style-type: none"> <li>Chair states that he wishes “to make it clear however that in the absence of any evidence of any bad faith, given the limited information provided to me, I personally cannot draw the conclusion that the submission of the sick certificate is linked to the refusal to allow for proceedings not to continue today. However, be that as it may, as Chair, I am raising this so that you are aware that there may be a view that Adv Mkhwebane’s illness has been contrived to delay the hearings, and that in fact after appearing for 2 days (where in the main she dealt with background matters and the CR17 issue) she has no intention to appear ever again.”</li> </ul>
24 March 2023	<p><b>1. Letter from Seanego Inc, to Chair titled, “Re: Recent Developments Regarding the Public Protector’s Evidence” (Item 180)</b></p> <ul style="list-style-type: none"> <li>PP seeks an extension to submit her part B statement by 28 March 2023 at the latest due to her illness.</li> <li>Dispute that Adv Mpofu, SC agreed to lead PP for 6 days and indicate it will require a minimum of 10 to 12 days to complete her evidence.</li> <li>Object to unilaterally revised programme</li> </ul>
27 March 2023	<p><b>1. Letter from Chair to Seanego Inc, titled, “Your Letter Of 24 March 2023 In Respect Of Submission Of Sick Certificate And Continuation of Programme” (Item 181)</b></p> <ul style="list-style-type: none"> <li>The Chair takes note of the PP’s undertaking to submit the final instalment of the statement by no later than 28 March 2023.</li> <li>Indicates concern for the request for additional days notwithstanding that nothing has happened to warrant same.</li> <li>Notes that the Committee will be in possession of the statement of the PP, and it is therefore not necessary for counsel or the PP to read paragraphs into the record as the statement, as it has been tabled, and automatically forms part of the record. Rather the emphasis should be on key questions and responses that will assist members in considering the motion.</li> <li>Further that members have had an opportunity to consider the statement and the leading of evidence to amplify the contents of a comprehensive statement should not take more than 4 more days. Agrees to consider further days on receipt of a plan as to how the oral evidence is to be further structured.</li> <li>Requests written update on fees issue.</li> </ul> <p><b>2. PP submits Part B of her statement. PP notes this is the second and final instalment of her affidavit and witness statement.</b></p>
28 - 31 March 2023	<p>Day 3 - 6 of PP’s testimony, led by Adv Mpofu, SC. At this stage the PP concluded with Part A of her sworn statement dealing in the main with the CR17/BOSASA and SARS matters.</p>
31 March 2023	<p><b>1. Letter from Acting Public Protector to PP titled The Funding Of Legal Services To Adv B Mkhwebane during the Proceedings Before The Section 194 Committee” (Item 184)</b></p>

DATE	DESCRIPTION
	<ul style="list-style-type: none"> <li>The Acting PP's confirms that the PPSA's position as communicated on 01 March 2023, has not improved and that it is unable to commit any further funding towards the PP's legal costs for the remainder of the proceedings on the Committee's draft programme after 31 March 2023.</li> <li>Notes that the legal fees in respect of the litigation on the impeachment process, as well as the proceedings before the Section 194 Enquiry for the 2022/23 financial year amount to approximately R26,2 Million excluding the legal fees for March 2023.</li> </ul>
<b>APRIL 2023</b>	
	<ol style="list-style-type: none"> <li>Various interventions by Chair to assist the PP in securing additional funds to conclude the process.</li> <li>The Evidence Leaders are instructed to contextualize court judgements in respect of CR17/BOSASA and SARS matter over a period of 5 days for the benefit of the Committee. PP objects but Evidence Leaders proceed on instruction of Chair. The Chair provides reasons for this decision in full.</li> </ol>
4 April 2023	<ol style="list-style-type: none"> <li><b>Letter from the PP to the Chair titled, "Re: Illegal Ongoing Enquiry Proceedings Disguised As A "Committee Meeting" (Item 185)</b> <ul style="list-style-type: none"> <li>PP Object to evidence leaders being allowed to contextualise judgements for the Committee in the absence of her legal team and submits it's in breach of her right to full legal representation.</li> <li>PP alleges it's an exercise in 'damage control' re CR17 and designed to poison the minds of members and the public.</li> <li>Demands that the Committee meetings do not continue failing which reasons are to be provided by 6 April at 13h00.</li> </ul> </li> </ol>
6 April 2023	<ol style="list-style-type: none"> <li><b>Letter from the Chair to PP, titled "Your Letter Of 4 April 2023" (Item 186)</b> <ul style="list-style-type: none"> <li>Chair notes the self-imposed deadline to respond with reasons as to why the Committee is receiving briefings from the evidence leaders and undertakes to respond latest by 11 April 2023 after the Easter weekend.</li> </ul> </li> </ol>
11 April 2023	<ol style="list-style-type: none"> <li><b>Letter from the Chair to PP, titled "Your Letter Of 4 April 2023 And My Letter Of 6 April 2023" (Item 187)</b> <ul style="list-style-type: none"> <li>Chair denies that the PP has been deprived of legal representation as it is not the responsibility of the Committee to fund her legal representation.</li> <li>Explains in detail the reasons for allowing the evidence leaders to contextualise judgements in her absence.</li> </ul> </li> </ol>
<b>MAY 2023</b>	
02 May 2023	<ol style="list-style-type: none"> <li><b>Letter from PPSA to PP titled "Legal Services to Adv B Mkhwebane During the Proceedings Before the Section 194 Committee" (Item 188)</b> <ul style="list-style-type: none"> <li>PPSA confirms that an additional R4 Million Rand will be made available but that this money will be ringfenced.</li> <li>No additional funds will be made available beyond this.</li> </ul> </li> </ol>

DATE	DESCRIPTION
	<ul style="list-style-type: none"> <li>• It is the responsibility of the PP to manage this amount. In this regard the PPSA will not instruct counsel or attorneys, and this is to be done by the PP.</li> </ul> <p>2. <b>Letter from the Chair to the PP, titled “Resumption of The S194 Enquiry” (Item 189)</b></p> <ul style="list-style-type: none"> <li>• Chair informs the PP that as further funds have been made available hearings will proceed on 8 May thereby allowing the PP an opportunity to brief her legal team. (PP alleges not to have received the letter from the PPSA and it is resent to her.)</li> </ul>
05 May 2023	<p>1. <b>PP launches an application in Constitutional Court regarding her legal fees, and who must bear the costs, amongst other things despite additional fees being made available. PP is represented by her personal attorneys, RMT Attorneys for purposes of this application.</b></p> <p>2. <b>Letter from RMT Attorneys to Chair titled “Your Letters Of 3 And 4 May 2023” (Item 191.D)</b></p> <ul style="list-style-type: none"> <li>• RMT submits that the mandate of the PP’s previous legal team in the section 194 Committee as well as the agreements which were concluded between them and PPSA concerning the Enquiry were terminated with effect from 31 March 2023.</li> <li>• States further, “Given the fact that our client is without legal representation in the Committee and her eagerness to complete the process, in a fair manner, <b>she would have no objection to being represented by the State Attorney, or for that matter any other attorney, provided of course that this would be done in a manner which will be fully compliant with a binding order of the Constitutional Court.</b>”</li> <li>• There is no process by which the PP can “ascertain the availability” of the counsel of her choice without first securing the services of an attorney who is in a position to brief counsel to undertake a case on agreed dates and payment terms.</li> <li>• PP, since 31 March 2023 is in no position to give such instructions to any attorney. She awaits feedback from Adv Gcaleka, as to whether and how the services of the old or new attorneys might be lawfully procured.</li> <li>• Only once attorneys have been engaged and the terms of such engagement have been agreed that issues of availability of counsel may be enquired into.</li> </ul>
06 May 2023	<p>1. <b>Letter from Chair to PP titled, “Your Letter Of 5 May 2023 in Respect of The Resumption of The S 194 Enquiry” (Item 192)</b></p> <ul style="list-style-type: none"> <li>• The chair requests clarity on the status of RMT Attorneys who are not attorneys on record for the Enquiry.</li> <li>• ‘Chair notes the letter of 5 May 2023 does not clarify whether the PP has taken any steps to ascertain from Mr Seanego as to his availability and further the availability of the counsel on brief given that further funding has been secured.</li> <li>• Repeats the request for the PP to ascertain from Mr Seanego and counsel (be it through Mr Seanego) as to the availability of the legal team who has represented her to date. This is apart from the details of the mechanics of how payment is to ensue.</li> <li>• Urgent clarity from the PP is sought in anticipation of the proceedings scheduled for Monday, 8 May 2023.</li> </ul>

DATE		DESCRIPTION
08 May 2023		<p>1. <b>PP attends committee meeting without legal representation stating that she cannot engage Seanego Inc. directly and the PPSA must do.</b> See Transcript attached as <i>Annexure "E"</i></p>
09 May 2023		<p>1. <b>Letter from Committee Secretariat to PPSA CEO titled "Resumption Of S194 Enquiry" (Item 194)</b></p> <ul style="list-style-type: none"> <li>• Urgent Request to resolve this impasse of who must brief Seanego Inc.</li> <li>• Raise various issues on which clarity is sought in respect of the R4 Million allocation given the issues raised by the PP in the meeting on 8 May 2023.</li> </ul>
11 May 2023		<p>1. <b>Letter from PPSA CEO to Chair titled, "Resumption of S194 Enquiry" (Item 196)</b></p> <ul style="list-style-type: none"> <li>• CEO maintains that PP must brief Seanego Inc. but that the costs will be carried by the PPSA. Provides reasons for same and responds to further issues on the R4 Million allocation including that as per previous arrangement they will provide funding but not directly engage the legal team of the PP due to potential risk of conflict of interest.</li> <li>• Allege that PP failed to raise the issue of cost estimates promptly in March.</li> <li>• The brief of Seanego Inc. was not terminated.</li> <li>• Notes that they advised the PP to utilise the services of the Western Cape members for protection as opposed to traveling with the protectors from Pretoria. This is the arrangement the PPSA also makes for the Acting Public Protector when she travels to other provinces and has proven to be cost effective. This is response to the PP raising the fact that the R4 Million would need to cover the costs related to her protector as well.</li> <li>• No money will be transferred to the PP- she is merely expected to manage the funds in line with the PFMA.</li> </ul>
12 May 2023		<p>1. <b>Letter from Acting Public Protector to PP (Copied the Chair) titled "Proposed resumption of the Section 194 Enquiry / Your Legal Representation" (Item 197)</b></p> <ul style="list-style-type: none"> <li>• Procurement of PP's legal representation in respect of the section 194 Committee</li> <li>• Notes that, <i>"The extension of the funding commitment to an additional R4 million rand is based on the same conditions as before whereas you (PP) have already appointed Messrs Seanego Inc. to provide legal and related services to you without the PPSA having issued written instructions or a mandate pertaining to your legal representation pursuant to its internal appointment and governance processes."</i></li> </ul> <p>2. <b>Letter from Chair to PP titled "Resumption of the s194 enquiry following your presentation to the committee on the issue of Legal Representation" (Item 198)</b></p> <ul style="list-style-type: none"> <li>• Chair indicates hearings will resume on 17 May 2023 and that this additional time is being afforded to the PP to take the necessary steps to brief Seanego Inc. and counsel and attend to any 'housekeeping' matters.</li> <li>• The Chair expresses surprise that the PP indicated that notwithstanding the go-ahead from the PPSA she would not be in a position to issue further instructions to her legal team, who she indicated remains her team of choice.</li> <li>• Notes that the PP only wrote to the Acting Public Protector on matters related to her fees on 10 May 2023 and not immediately following the</li> </ul>



DATE	DESCRIPTION
	<p>letter of the Acting Public Protector of 2 May 2023 so that her concerns could be tabled. Instead, it appears that the PP concentrated on instituting urgent proceedings in the Constitutional Court on matters related to her legal representation.</p>
<p>15 May 2023</p>	<ol style="list-style-type: none"> <li>1. <b>Letter from Seanego Inc to the Chair titled “RE: SECTION 194 PROCEEDINGS BEFORE THE COMMITTEE” (Item 199)</b> <ul style="list-style-type: none"> <li>• “Please be advised that Seanego Attorneys Inc. was not involved in this matter since 31 March 2023 and will not be involved going forward due to professional reasons. This was communicated to the Public Protector.” These professional reasons are not stated.</li> </ul> </li>   <li>2. <b>Letter from RMT Attorneys (PP’s personal attorneys) to Chair “Re: Proposed Resumption Of The S194 Enquiry” (Item 201)</b> <ul style="list-style-type: none"> <li>• Confirm they act as PP’s personal attorneys.</li> <li>• Allege that PP’s right to legal representation cannot be exercised unless suitable arrangements and agreements which are in compliance with the law and governance prescripts, have been concluded as between PPSA and qualifying attorneys (i.e., on the PPSA panel).</li> <li>• The PP cannot unilaterally secure the attendance of her counsel at the Enquiry.</li> <li>• Absent any agreement as to the rates to be charged, the utilisation of the proposed R4 million budget and/or the proposed payment of the legal representatives only at the end of the enquiry, to mention a few, there can be no movement forward.</li> </ul> </li>   <li>3. <b>Letter from Chair to Seanego Inc titled, “Your Letter of 15 May 2023 in Respect of Your Future Non-Involvement In s194 Enquiry.” (Item 202)</b> <ul style="list-style-type: none"> <li>• Request Seanego Inc. to attend the Committee proceedings on 17 May 2023 to explain the “professional reasons” as cited in the letter.</li> </ul> </li> </ol>
<p>16 May 2023</p>	<ol style="list-style-type: none"> <li>1. <b>Letter from the CEO of the PPSA to Solicitor-General (copying the secretariat) titled “Request for Legal Assistance to Adv. B Mkhwebane: Public Protector of South Africa (Suspended)” (Item 203)</b> <ul style="list-style-type: none"> <li>• CEO Raises concerns about the s194 Enquiry and asks whether the services of the State Attorney could be utilized, for purposes of briefing counsel to appear on behalf of the PP in the Enquiry. <ul style="list-style-type: none"> <li>• PPSA has engaged Chaane Attorneys who advised they are not comfortable with the arrangement that they are instructed by the PP and that they seek instruction and a mandate directly from the PPSA. In the circumstances the PPSA requests the Solicitor-General to facilitate the outsourcing to Chaane Attorneys.</li> </ul> </li> </ul> </li> </ol>

DATE	DESCRIPTION
17 May 2023	<p><b>1. Letter from Seanego Inc. to Chair titled “RE: Section 194 Proceeding before the Committee” (Item 206)</b></p> <ul style="list-style-type: none"> <li>Seanego Inc. refuses to appear before the Committee to answer questions in relation to their withdrawal citing that it would constitute a breach of privilege which had not been waived by the PP.</li> </ul> <p><b>2. Committee Meeting (See Transcript Attached as Annexure “F”)</b></p> <ul style="list-style-type: none"> <li>The PP confirms in a committee meeting that Seanego is no longer acting for her and requests assistance, via the PPSA, in procuring the services of Chaane Attorneys who are also on the panel of attorneys for the PPSA. The PP indicates that she will not waive her professional legal privilege in respect of providing the Committee with the reasons for the withdrawal of Seanego Inc. when asked to do so for purposes of assisting, via the PPSA, that the services of Seanego Inc. be retained. The PP indicates that she never agreed to use the State Attorney because of conflict of interest, contrary to what is contained in the letter from RMT Attorneys dated 4 May 2023.</li> </ul> <p><b>3. Letter from Solicitor-general to the PPSA (Copy Secretariat) titled “RE: Request for Legal Assistance to Adv B. Mkwhebane: Public Protector of South Africa (suspended)- Your letter dated 16 May 2023” (Item 207)</b></p> <ul style="list-style-type: none"> <li>The SG raises concerns about a potential conflict of interest indicating that engaging state-attorneys “may not be in the best interest of justice, considering potential conflicts of interest and the strained budgetary situation” and that it shall be “inappropriate.”</li> <li>The SG notes that the right to legal representation is not an open-checkbook exercise. He proposes negotiating fees, streamlining the legal team and/or outsourcing the engagement of attorneys by the PPSA.</li> </ul>
18 May 2023	<p><b>1. Letter from Chair to PPSA CEO titled “Way Forward in Respect of the Resumption of the s194 Enquiry” (Item 208)</b></p> <ul style="list-style-type: none"> <li>Requests that the CEO assist the PP by appointing Chaane Attorneys.</li> </ul>
23 May 2023	<ul style="list-style-type: none"> <li>Chaane Attorneys appointed as correspondent attorneys by the State Attorney, Pretoria, subject to the appointment of one counsel at a rate of R45 000 per day.</li> </ul>
24 May 2023	<p>Chaane indicates to State Attorney that Adv Mpofu will not accept the brief unless the junior counsel who appeared together with Adv Mpofu, SC in the matter are also appointed. At this stage this was the only condition raised and no further issue is raised in relation to fees.</p>
25 May 2023	<ul style="list-style-type: none"> <li>Parliamentary Legal Adviser, Ms. Ebrahim and the secretariat meet with Mr. Chaane to explain how Dropbox works and other housekeeping matters.</li> <li>Chaane is provided access to the Dropbox repository of records before the Committee as well as an explanatory note showing duplication in records and how to navigate the records. The next day the Secretariat sends an email again indicating that access has been granted.</li> </ul>
26 May 2023	<p>1. The State Attorney informs Chaane that approval has been granted to also appoint the 2 juniors to support Adv Mpofu, SC as per his request.</p>

DATE	DESCRIPTION
	2. The Chair is informed of allegations against him by journalist, Mr. Mzilikazi Wa Afrika.
27 May 2023	<b>Secretariat sends confirmatory email with “DropBox Explanatory Note” to Chaane Attorneys explaining duplications and how to navigate the record (Item 212)</b>
28 May 2023	<b>An article titled “ANC bigwigs allegedly demanded R600 000 to make Mkhwebane inquiry ‘go away’”,</b> written by journalist Mzilikazi Wa Afrika is published in the Sunday Independent.
<b>JUNE 2023</b>	
01 June 2023	<ol style="list-style-type: none"> <li>1. <b>Letter from the PPSA to Chair titled, “legal Representation for Adv Mkwhebane during the S194 Enquiry” (Item 217)</b> <ul style="list-style-type: none"> <li>• PPSA indicated their approval of the increased negotiated daily counsel rates.</li> </ul> </li> <li>2. <b>Chaane accesses Dropbox for first time according to them.</b></li> </ol>
02 June 2023	<ol style="list-style-type: none"> <li>1. Chaane Attorney’s receives communication from the State Attorney, Pretoria informing them that counsel’s revised fees have been agreed to and they can proceed to brief counsel.</li> <li>2. Considering the above the Committee meets and resolves to proceed on 5 June 2023. <b>(See transcript of meeting attached as Annexure “G”)</b></li> <li>3. <b>Letter from Chair to Chaane titled “Resumption of the s194 Enquiry (Item 217.A)</b> <ul style="list-style-type: none"> <li>• Chair indicates he is having regard to request to a proposal to conclude evidence on BOSAS/CR 17 and SARS by allowing the Evidence Leaders and members to proceed with questions on these matters before proceeding to the content of Statement B. Chair requests feedback by 4 June at 1pm.</li> </ul> </li> <li>4. From the appointment of Chaane Attorneys up to this point there are regular follow-ups from the secretariat on the issue of appointing counsel, but responses are vague, and no mention is made of an indefinite time requirement to go through documents.</li> </ol>
04 June 2023	<ol style="list-style-type: none"> <li>1. <b>Letter from Chaane Attorneys to Chair Titled “Re: The Public Protector South Africa (Advocate Busisiwe Mkhwebane) Section 194 Inquiry” (Item 218)</b> <ul style="list-style-type: none"> <li>• Request an indefinite postponement of the Enquiry to allow them time to familiarise themselves with the record for purposes of adequately advising the PP and instructing counsel.</li> <li>• Expresses the view that they cannot instruct Counsel until such time as there is clarification on the R4 Million cap and payment terms and client agreeing to foot the bill beyond this amount. This is raised for the first time as impediments to the briefing of counsel.</li> <li>• Note their client’s intention to raise issue of allegations stating, “At the sitting tomorrow, our client will separately address the issues related to the allegations of bribery and corruption on the part of the Chair and one member of the Committee.</li> </ul> </li> <li>2. <b>Letter from Chair to Chaane Attorneys titled “Your letter of 4 June 2023” (Item 219)</b></li> </ol>

DATE	DESCRIPTION
	<ul style="list-style-type: none"> <li>• Consideration is still being given to an approach of allowing evidence to be concluded on CR17/BOSASA and SARS and deadline for comment extended to 5 June at 14h00.</li> <li>• Notes the request to have a backroom meeting was not responded to and issues relating to the failure to brief counsel are being raised at the 11<sup>th</sup> hour amounting to self-created delays.</li> <li>• Note that that impediment in respect of the appointment of junior counsel and an increase in fees are lifted there appears to be no reason for failure to brief counsel.</li> <li>• Deals with all issues raised by the PP in respect of the R4 Million allocation</li> </ul>
05 June 2023	<ol style="list-style-type: none"> <li>1. <b>Letter from Chaane Attorneys to Chair titled “RE: The Public Protector South Africa (Advocate Busisiwe Mkhwebane) Section 194 Inquiry” (Item 221)</b></li> </ol> <ul style="list-style-type: none"> <li>• Mr. Chaane is in hospital and no one else can respond to Chair’s letter as he is the only person able to deal with the 194 matters.</li> </ul> <ol style="list-style-type: none"> <li>2. <b>Letter from Chair to Chaane Attorneys titled “Your Letter of 5 June 2023 and My Decision in Respect of Way Forward” (Item 222)</b></li> </ol> <ul style="list-style-type: none"> <li>• Chair communicates decision in respect of conclusion of evidence on CR17/BOSASA and SARS and reasons. Provide copy of draft directives incorporating process to provide for this decision in terms of which PP will answer questions on her Part A statement before completing evidence on Part B. these directives are never implemented.</li> </ul> <ol style="list-style-type: none"> <li>3. <b>Letter from Secretariat to Solicitor-General titled “Further Delays in The Resumption of the S194 Enquiry into the Removal of the Public Protector, Adv. Busisiwe Mkhwebane” (Item 220)</b></li> </ol> <ul style="list-style-type: none"> <li>• Inform the Solicitor-General that counsel has not been briefed by Chaane Attorneys and this may adversely impact the Enquiry.</li> </ul>
06 June 2023	<ol style="list-style-type: none"> <li>1. <b>Letter from the Solicitor-General to CEO of PPSA and the Secretariat titled “Regarding Attorney debriefing and Insourcing of Legal Representation in Section 194 Proceedings” (Item 223)</b></li> </ol> <ul style="list-style-type: none"> <li>• SG has decided, subject to concurrence by the PPSA, that the mandate of Chaane Attorney’s will be terminated, and the briefing of counsel will be insourced via the State Attorney, Pretoria.</li> <li>• The SG cites the illness of Mr Chaane and the fact that resolution cannot be reached on the issue of revised fees for counsel. He notes this will result in a saving of R25 000 per day for the PPSA which can be used to cover the revised fees of counsel and will allow the PP to be represented by her desired legal team. The PPSA communicates its agreement to same.</li> </ul> <ol style="list-style-type: none"> <li>2. <b>A letter from the PP to the Chair titled RE: Legal Representation (Item 224)</b></li> </ol> <ul style="list-style-type: none"> <li>• A Letter is received from the PP personally to the Chair raising various issues including the adequacy of the 4 million cap and objection to communication from PPSA that she will bear the costs personally after the depletion thereof;</li> </ul>

DATE	DESCRIPTION
	<p>an objection to way forward in terms of which questions will be put to her by Evidence Leaders and members on CR17/BOSASA and SARS Unit matter.</p> <ul style="list-style-type: none"> <li>• The PP indicates that since the Chair previously rejected her request to allow Evidence Leaders and Members to put questions to her on these matters before she proceeded to other evidence, he cannot consider it again as he is functus officio (the Chair having dismissed such a request by Adv Bawa, SC while when the PP concluded her evidence on CR17/BOSASA).</li> <li>• She further states she has no reason to delay the Enquiry whether deliberately or otherwise, the charges are spurious and baseless and there is a scheme to manipulate evidence. PP indicates further she intends to instruct her attorney to move an application for removal of chair if he does not voluntarily recuse himself in relation to allegations of bribery.</li> <li>• The PP also demands that the Enquiry be suspended until all outstanding issues relating to legal representation is resolved including that Mr. Chaane is recovered and failure to comply will result in an urgent court application.</li> </ul> <p><b>3. The PP sends the Secretariat an email titled “Annexure A WhatsApp message containing copies of the alleged WhatsApp messages between Mr Skosana and Ms Joemat-Pettersson (This is shared with Committee members by the secretariat the next day).</b></p>
7 June 2023	<ol style="list-style-type: none"> <li>1. <b>Meeting of the Committee. See Transcript Annexure “H”.</b></li> <li>2. The PP appears without legal representatives, citing the illness of Mr. Chaane and indicating that hearings cannot continue until various matters are attended to.</li> <li>3. Mr. Chaane submits a sick certificate providing for an indefinite leave of absence “until further notice”. See <b><i>Email from Chaane to secretariat confirming Mandate of Chaane is terminated by the State Attorney, Pretoria (Item 227)</i></b> Attached - <b><i>Letter from SG to Chaane (Item 227. A)</i></b></li> </ol>
8 June 2023	<p><b>WhatsApp Communication between Mr Chowe of the State Attorney Pretoria Office and Mr Thembinkosi Ngoma, Committee Secretary (Item 231.A)</b></p> <ul style="list-style-type: none"> <li>• Mr Chowe informs the Secretariat that he has received instructions from PPSA to brief counsel and will do so in the course of the day.</li> <li>• On the same day he also indicates that the PP wishes to raise technical issues.</li> </ul>
9 June 2023	<ol style="list-style-type: none"> <li>1. <b><i>Email from Mr Chowe, State Attorney, Pretoria to the Chair (Item 232)</i></b></li> <li>• Just prior to the meeting commencing, Mr Chowe of the State Attorney, Pretoria office addresses an email to the secretariat indicating Adv Mkwhebane has raised several issues in relation to the matter including: <ol style="list-style-type: none"> <li>a) that his office is conflicted and she therefore objects to the State Attorney appearing as her attorney of record.</li> <li>b) There is a lack of clarity on the funding issue, and it is before the Constitutional Court</li> <li>c) She intends to apply for the recusal, but this application can't be moved by the State Attorney</li> <li>d) No counsel will appear until funding issues are resolved. PP appears with Mr. Chowe, State Attorney, Pretoria but without counsel.</li> </ol> </li> </ol>

DATE	DESCRIPTION
	<p>e) Mr Chowe has been mandated to the extent of appearing before the Committee to deal with the above.</p> <p><b>2. Meeting of the Committee (Transcript attached as Annexure “1”)</b></p> <ul style="list-style-type: none"> <li>• The PP attends the meeting with Mr Chowe, State Attorney Pretoria. Mr Chowe however informs the Committee that the PP has declined the offer to be assisted by his office as attorneys of records citing a patent conflict of interest and the proceedings cannot move ahead. He indicates he has not been able to ascertain counsel’s availability due to this.</li> <li>• The Committee receives legal advice that Adv Mkhwebane has twice in writing indicated she does not object to the use of the State Attorney. In any event the State Attorney, Cape Town’s role was limited to paying the fees of the evidence leaders. The test for conflict is one of reasonableness and it is not apparent what the patent conflict is especially as the State Attorney may act for more than one organ of state in the same matter (having previously advised that there was a ‘Chinese wall’).</li> <li>• The PP insists that because the State Attorney is not on the panel of attorneys of the PPSA their appointment would be in contravention of the PFMA, and the State Attorney cannot litigate against the State Attorney as the Committee used it as attorneys of record in related s194 litigation processes. She said she felt persecuted by the State, and she never agreed to the use of the State Attorney but meant they could be used to appoint Chaane Attorneys.</li> <li>• The legal adviser disagrees and says that the PFMA does not apply to the extent that the State Attorney is not paid for services unlike private attorneys.</li> <li>• Members allude to the fact that Mr Chaane is ‘fighting for his life’ in hospital therefore confirming that the period of illness is not determinable.</li> <li>• Chair proposes a new way forward to deal with the remainder of the Enquiry on terms of which written questions will be posed to the PP and she will have an election to answer orally or in writing. It is supported by members who respond to the proposal.</li> </ul> <p><b>3. PP fails to submit written recusal application by 13h00.</b></p> <p><b>4. Letter from RMT Attorneys to the Chair titled (Item 232.A)</b></p> <ul style="list-style-type: none"> <li>• Letter is received during committee meeting from RMT who act for Adv Mkwhebane in “her personal capacity.”</li> <li>• Raise allegations of criminal conduct involving bribery, corruption and extortion.</li> <li>• Note the call for the Chairs voluntary recusal by their client, the ATM, UDM and EFF.</li> <li>• Demand that before a written application can be submitted the Chair must respond directly to calls for his voluntary recusal relying on amongst others his conscience; the need to protect the integrity of the Committee and Enquiry, the ANC step aside rule and the Constitution.</li> <li>• Demand further that if Chair fails to recuse himself, he must provide formal reasons by 17h00 on 12 June 2023 failing which the PP reserves her right to “approach a court of law on an urgent basis to</li> </ul>

DATE	DESCRIPTION
	declare you unfit Chair the proceedings pending the outcome of the criminal and Parliamentary investigations.”
12 June 2023	<p><b>Letter to the PP (MR Chowe and RMT copied therein) from the Chair titled, “Request for my ‘Voluntary Recusal’ (Item 233)</b></p> <ul style="list-style-type: none"> <li>• Chair notes that RMT is not attorneys on record for purposes of the Enquiry but act for the PP in related 194 litigation.</li> <li>• Maintains PP has not been denied legal representation and nothing prevented her from ensuring that the State Attorney brief counsel on her behalf and it is the PP who has not permitted the briefing of counsel. Her legal team appear to be able to bring urgent court applications but not submit a recusal application.</li> <li>• Notes as entirely inappropriate, given the time available for the Committee to complete its work, the demand for an indefinite postponement until legal representation issue is resolved or alternatively that suitable arrangements be made for the hearing of the recusal application.</li> <li>• <i>Explains</i> the Committee is not mandated to deal with the allegations against him and they are the subject matter of an Ethics Committee process and a criminal investigation. In the circumstances, the R4 Million “set aside for conclusion of the process will not be diverted to deal with allegations which are before appropriate forums and therefore no oral address will be permitted to occur before this Committee on this issue.”</li> <li>• Reiterates the recusal application is a matter to be determined by himself, but the Committee may remove him as Chair if it so wishes.</li> <li>• Indicates that no formal application has been received and it’s not clear why RMT or the PP could not have done so. Reiterates that the PP may bring it at any time provided that it fully sets out the reasons for recusal.</li> <li>• The PP is reminded that evidence placed before the Committee is in the public domain.</li> <li>• Chair undertakes to respond fully when it is received but refuses to voluntarily recuse himself until the matter is properly placed before the Committee in terms of the Directives as the effect of what the PP seeks is for the Chair to abdicate from his parliamentary and constitutional obligations on the basis of media reports and WhatsApp’s which do not fall within the PP’s personal knowledge.</li> </ul>
13 June 2023	<ol style="list-style-type: none"> <li>1. PP hosts a press conference where alleged audio recordings are played for the first time, and she calls for Chair’s recusal.</li> <li>2. <b>Letter to PP from Chair titled “Resumption of the s194 Enquiry and Change in Format” (Item 234) Sent prior to press briefing.</b> <ul style="list-style-type: none"> <li>• Notes it has been more than 10 weeks since hearings have been held.</li> <li>• Notes further unless revised directives are issued the Committee will face continuous obstacles which will impede it from completing its work and the NA from fulfilling its obligations.</li> <li>• Procedure had to be revised in light of the R4 Million budget and the limited timeframes.</li> <li>• Given repeated stalemates oral hearings followed by questions are no longer practical. No purpose is served clinging to directives that are not implementable and to which the PP had objected to anyway.</li> </ul> </li> </ol>

DATE	DESCRIPTION
	<ul style="list-style-type: none"> <li>• Refers to the various obstacles faces including: <ul style="list-style-type: none"> <li>- Various interlocutory type applications; illness; the so called ‘walk-out’ of the PP’s legal team; a recusal application against Chair and Mr Mileham, MP; a recusal application in respect of the Evidence Leaders; funding and payment issues and delays occasioned by parallel litigation processes launched by the PP. The completion of oral evidence of witnesses also took longer than anticipated and were, in some cases, interrupted by other events. All of these impacted on the Committee completing its work. Chair mentions same without attributing any blame. It is a fact that these delays have occurred and have adversely impacted the work of the Committee and he reiterates that he is doing his level-best to manage the consequences.</li> <li>- Reiterates that given the resources ploughed into the matter, at the expense of taxpayers, the Committee must complete its task and report to the NA by latest early August.</li> <li>- Notes that as indicated at the meeting on Friday, 9 June, it appears that for every step forward, we take two steps back adversely affecting the ability of this Committee to fulfil its functions without delay. It would be an indictment on Parliament which has, as a core function, the duty to conduct oversight (including holding office bearers of Institutions Supporting Democracy to account), if it were not able to conclude the process it commenced, regardless of what the outcome thereof may be, and which remains to be seen. This is especially so after the expense incurred in this protracted process.</li> <li>- Given all the financial and human resources ploughed, at the expense of taxpayers, into this process (on the side of Parliament and the PPSA) which has ensued for, more than 11 months since the Enquiry commenced, the Committee must complete its task. Chair remains obligated to take all necessary steps to ensure that a report be provided to the National Assembly as per the Constitution and Assembly Rules. This means that the Committee must conclude its work and provide the National Assembly with a report for consideration by latest early August 2023 so that this matter may be finalised prior to the end of your term of office in October 2023. This latter date has always been known.</li> <li>- Emphasises again it is not fair to the PP that this process overshadows her departure from office. If it is left incomplete this may present an impediment to her in her future career path. However, and importantly, it is also, in the public interest that the process is completed.</li> </ul> </li> </ul>
15 June 2023	<ol style="list-style-type: none"> <li>1. <b>Letter to the PP from the Chair (Copy Mr Chowe), titled “Addendum 2 to Amended Directives of 28 July attaching signed directives (Items 235 and 235.A)</b> <ul style="list-style-type: none"> <li>• Attached addendum 2 to Amended Directives of 28 July issued on 15 June 2023 setting out the new way forward.</li> <li>• Attached milestones with all due dates for ease of reference. To date PP has not met any deadlines and maintains same are illegal.</li> </ul> </li> <li>2. <b>Letter from the PP to the Chair titled “Resumption of the s194 Enquiry” (Item 236)</b> <ul style="list-style-type: none"> <li>• PP submits the following:</li> </ul> </li> </ol>



DATE	DESCRIPTION
	<ul style="list-style-type: none"> <li>• The 'repeated stalemates' are due to the withdrawing of funding which resulted in Seanego Inc's withdrawal.</li> <li>• The use by the PPSA of the State Attorney was probably unlawful and wasteful and reiterates the conflict identified by the Solicitor General.</li> <li>• The termination and reinstatement of Chaane was done without her consultation by the PPSA.</li> <li>• The amount of R4 Million is arbitrary and it is unfair to expect her to pay out of her pocket any additional costs. Legal fees may run into millions, and she will never accept responsibility to pay this when the state bears the responsibility to do so.</li> <li>• Cannot meaningfully participate in the Enquiry without legal representation.</li> <li>• Denies refusing to instruct any attorney to brief counsel- it is a matter for the PPSA to brief counsel.</li> <li>• Raises issues of conflict in respect of State Attorney</li> <li>• She is handicapped in the absence of legal representation and rejects the new unfair procedure introduced literally in the middle of her testimony depriving her of rights afforded to other witnesses and calling it 'patently unfair'.</li> <li>• She cannot place objections before the committee or deal with the merits of the matter without legal representation.</li> <li>• The draft directive will be referred to her legal representative once in place.</li> <li>• Calls for chairs recusal again and note she is not in a position without legal representation. Indicates she now has audio recordings in addition to WhatsApp's that were shared.</li> </ul>
19 June 2023	<p><b>1. Email to Chaane Attorneys from Secretariat 19 June 2023, titled Request for information (Item 237)</b></p> <ul style="list-style-type: none"> <li>• Attached letter sent to PP on 15 June 2023 with milestones and addendum 2 of the Directives.</li> <li>• Confirm they back on brief and we been put back on to WhatsApp group.</li> <li>• Invite them if they have problems with DropBox to contact the secretariat for assistance.</li> </ul> <p><b>2. Adv Mpofu, SC indicates via WhatsApp he is constrained as he cannot act in absence of instructions.</b></p>
20 June 2023	<p><b>Letter from Chair to the PP (copy Chaane Attorneys) titled "Your Letter Dated 15 June 2023 (Item 238)</b></p> <ul style="list-style-type: none"> <li>• The Chair responds: <ul style="list-style-type: none"> <li>• Noting that nothing in the letter of 15 June warrants the attention of the Chair or Committee. However, deals with 2 issues namely recusal and identifying legal representatives.</li> <li>• He has not officially refused to recuse himself as there has been no official or formal written application for him to do so.</li> <li>• He refutes the PP's assertion that she cannot brief Chaane Attorneys but requires the PPSA to do so as this has not been the position in respect of Seanego Inc.</li> </ul> </li> </ul>

DATE	DESCRIPTION
	<ul style="list-style-type: none"> <li>• Reiterates that the Committee cannot be held accountable for the PP's failure to brief counsel, and this will be treated as an election on the PP's part not to exercise her legal rights.</li> <li>• Urges the PP to ensure that her counsel is available to assist with meeting deadlines and notes the first deadline of 19 June has been missed (i.e. to indicate whether she would answer orally or in writing).</li> </ul>
21 June 2023	<p><b>1. Letter from Chaane Attorneys to the Secretariat 21 June 2023 titled RE: The Public Protector South Africa (Item 239) (with 2 letters attached as below)</b></p> <ul style="list-style-type: none"> <li>• They are instructed to favour an “apposite response” to the Chair’s letter of 20 June 2023.</li> <li>• The deadlines set were not done in consult with the PP and are unenforceable and not provided for in the governing rules.</li> <li>• They unable to move an inch until they receive a response from the State Attorney to the queries raised in attached letters.</li> <li>• Any delay in the matter cannot be attributed to the PP.</li> </ul> <p><b>1.1 Attach Letter from Chaane Attorneys to State Attorney 14 June 2023 – RE: Advocate Busisiwe Mkhwebane – Section 194 Enquiry (Item 239.1)</b></p> <ul style="list-style-type: none"> <li>• Confirms re- appointment is subject to the increase in counsel’s rates.</li> <li>• Note they have started perusing documents prior to the termination of the mandate but they still need to peruse all “germane documentation”.</li> <li>• Indicate they are in the process of taking instructions on the limited funds and other issues and will revert. Confirm PP was not consulted re their termination or reappointment.</li> </ul> <p><b>1.2 Attach Letter from Chaane Attorneys to State Attorney 19 June 2023 – RE: Section 194 Enquiry - Immediate Issues (Item 239.2)</b></p> <p>Chaane submits the following:</p> <ul style="list-style-type: none"> <li>• Cannot be expected to brief counsel on merits before they familiarise themselves with what the matter is about.</li> <li>• Seek resolution of the issue of limited funding and confirm PP will not personally pay costs.</li> <li>• Propose that the first order of business is to remove a recusal application on respect of the Chair which must be disposed of before the merits are considered.</li> <li>• Request that counsel be briefed in relation to funding and recusal only.</li> <li>• Confirms PP is still of the view that the involvement of the State Attorney is irregular, wasteful, irrational and in violation of the PFMA and is a conflict of interest. As such the proposals made must not be regarded as agreeing to the use of the State Attorney.</li> </ul>
22 June 2023	<p><b>Letter from Chair to Chaane Attorneys titled, Your Letter of 21 June (Item 240)</b></p> <ul style="list-style-type: none"> <li>• Chair notes despite the efforts of PPSA, the Solicitor-General, the State Attorney, Pretoria and the Committee to secure legal assistance for the PP, neither Chaane nor the PP are willing to take the necessary steps to brief counsel for purposes of dealing with the merits of the Enquiry.</li> <li>• Note it is not clear why the State Attorney is required to brief counsel when Chaane is the Attorney of record and the State Attorney’s services were limited to assisting the PPSA to secure Chaane Attorney’s services.</li> </ul>

DATE	DESCRIPTION
	<ul style="list-style-type: none"> <li>• Indicate that the committee programme will therefore continue and urge the PP to use the resources availed to her.</li> <li>• Emphasises again that the Chair will deal with recusal when it is submitted.</li> <li>• Offer assistance of committee in locating records needed to answer written questions.</li> <li>• Notes that no reference is made to any specific ethical rule that compels the perusal of documentation to the detriment of the client. The detriment in this case will be the depletion of the funds, in circumstances where there are already three counsel extensively familiar and steeped in the matter.</li> <li>• Notes further that, <i>“On the face of it, this is arguably reckless and prejudicial to your clients’ interest, given that its effect will be a depletion of the R 4 million, without her benefiting from effective legal assistance, which is the purpose for the allocation of these funds. This too may well be contrary to the ethical rules of the profession. Your client has been made repeatedly aware that she must manage the additional R4 million that has been made available to her to conclude this process, and it is her responsibility to issue instructions – as she had done all along to Seanego Inc. The PPSA did not brief Seanego or counsel on any aspect of the enquiry, nor had there been an instruction, by way of example, sought from the PPSA to bring the previous recusal application or conduct the so called ‘walk out’ or raise any of the myriad objections or requests made during proceedings.”</i></li> </ul>
23 June 2023	<p><b>1. Letter from Chaane Attorneys to the Chair titled “Re: The Public Protector South Africa” (Item 241)</b></p> <ul style="list-style-type: none"> <li>• Deny that Chaane or PP is unwilling to take steps to brief counsel.</li> <li>• They cannot brief counsel until (1) clarity is given in respect of the proposed financial liability of their client; (2) they have been placed in a position to give “meaningful” instructions to counsel once they have familiarized themselves with the ground covered in the last 11 months; and/or (3) have been given the greenlight by State attorney or the PPSA to issue a limited brief (i.e. on recusal and funding).</li> <li>• Emphasize the importance of Chaane familiarize itself with the record and claim they cannot dispense their professional services without first being properly appraised of what has been done before his or her involvement, especially as a replacement.</li> <li>• Unilateral timelines are “irrelevant, meaningless and have no legal force and effect.”</li> </ul>
25 June 2023	<p><b>Letter from the Chair to Chaane Attorneys titled “Written Questions to The Public Protector and Response to Your Letter Of 23 June 2023” (Item 242)</b></p> <p>Attached:</p> <p>1.3 242.A Members Questions</p> <p>1.4 242.B Evidence Leaders Questions (with Annexure A)</p>
<b>JULY 2023</b>	
03 July 2023	<p><b>Letter from Chaane Attorneys to the Chair titled “RE The PPSA (Adv. Mkhwebane) Section 194 Inquiry”. (Item 243)</b></p>

DATE	DESCRIPTION
	<ul style="list-style-type: none"> <li>• Chaane Attorneys indicate they are not in the position to brief counsel in respect of the merits of the enquiry. PP rejects any obligation to pay legal fees or adhere to deadlines and the new directives.</li> <li>• Chaane Attorney's indicates further than R500 000 or more has already been spent of the R4 Million allocation (despite hearings not having resumed)</li> </ul>
04 July 2023	<p><b>Letter from the Chair to Chaane Attorneys titled "Your letter of 3 July 2023". (Item 244)</b></p> <ul style="list-style-type: none"> <li>• Letter deals with issues relating to perusal of the record; failure to brief counsel; Addendum 2 to the Directives; Recusal Application; Answering questions.</li> </ul>
06 July 2023	<p><b>1. Letter from Chaane Attorneys to the Chair titled "RE The Public Protector SA Section 194 Inquiry" (response to letter of 4 July 2023) (Item 245)</b></p> <ul style="list-style-type: none"> <li>• Reiterate that the nature of professional services cannot be solely dictated by the budget.</li> <li>• Neither State Attorney nor PPSA Offices have responded to Chaane's queries: <ul style="list-style-type: none"> <li><i>"...will not again address the illegality of the new procedure and the "deadlines" associated with it, nor the unreasonableness of such deadlines in the prevailing circumstances where we are still in the process of understanding the matter..."</i></li> <li><i>"...purpose of this letter is mainly to point out that you have deliberately failed and/or refused to furnish us with directions as to the lodgement and hearing of the recusal application, as specifically requested in our letter of 3 July 2023."</i></li> </ul> </li> <li>• Demand that the Chair issue " requested directions regarding the recusal application by no later than close of business on 7 July 2023, failing which it will be assumed that you are refusing to do so. At that point our client reserves the right to escalate the matter to the appropriate forums which may include resorting to the courts without any further notice."</li> </ul>
07 July 2023	<p><b>1. Letter from Secretariat to Chaane Attorneys titled "Your letter of 6 July 2023" (Item 246)</b></p> <ul style="list-style-type: none"> <li>• Secretariat notes that as previously communicated on several occasions, PP may tender her written recusal application anytime and the Chair will give it attention. Reference to Directive 10.1.</li> </ul>
07 July 2023	<p><b>1. Letter from Chaane Attorneys to Secretariat titled "RE The Public Protector SA Section 194 Inquiry" (Response to Secretariat) (Item 247)</b></p> <ul style="list-style-type: none"> <li>• Acknowledgement of receipt of previous letter.</li> <li>• Indicate they await the PP's instructions.</li> </ul>
12 July 2023	<p><b>The Public Protector lodges her recusal application (Item 248) after hours</b></p> <ul style="list-style-type: none"> <li>• It was brought to the attention of the Chair on 13 July 2023</li> </ul>
13- 23 July 2023	<p>The Chair undertakes to respond to the recusal by 21 July 2023. However, a delay is occasioned by incomplete records being provided. The Secretariat addresses various emails to Chaane Attorney's requesting that they upload the recordings referred to in the Recusal Application to the DropBox. Initially, Chaane Attorney's</p>

DATE	DESCRIPTION
	<p>indicates they do not have access (despite it being granted) and assistance is provided. Recordings are then uploaded but incomplete and Chaane indicates it is all that has been provided (notwithstanding that the transcript refers to 12 recording yet only 4 were provided and the recordings are a few minutes long whereas the 2 meetings totalled, on Mr Skosana's version approximately 1 hour). Chair requests that Chaane Attorneys take instructions from the PP on the matter.</p>
24 July	<ol style="list-style-type: none"> <li>1. Letter from Chaane Attorney's to Secretariat titled, "<b>Re: The Public Protector South Africa (Advocate Busisiwe Mkhwebane) Section 194 Inquiry</b>" (Item 250) <ul style="list-style-type: none"> <li>• Letter states in response to Chair's request to be provided with all the audio recordings that, "We confirm that, what we have provided is sufficient for purposes of the recusal application."</li> </ul> </li> </ol>