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

I, the undersigned,

NTHORISENG MOTSITSI

do hereby make oath and say that:

1. I am the Executive Manager for Complaints and Stakeholder Management ('CSM') in the Office of the Public Protector ('PPSA').
2. The facts in this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct. Where I make averments not directly within my knowledge, I do so on the basis of information available to me (to which I have referred herein) and I have no reason to doubt the authenticity or accuracy thereof.
3. I have prepared this affidavit at the request of the evidence leaders, and in order to inform the Committee of knowledge that I have which may be relevant to the function it has to discharge.
4. In 1997 I was admitted as an Attorney of the High Court of South Africa. I worked as a Senior Investigator at the PPSA between 1999 and 2004, and as a Chief Investigator between 2004 and 2007. I left the PPSA to join the Department of Home Affairs in 2007.



I re-joined the PPSA as Executive Manager: Complaints and Stakeholder Management in May 2017.

A. COMPLAINTS AND STAKEHOLDER MANAGEMENT

5. The CSM branch has five units: intake; assessment and early resolution inquiries; customer service; remedial action and outreach and stakeholder management.

(i) Intake Unit

6. Complaints are received, processed through the PPSA's registry and given a reference number and complaints are acknowledged. Intake staff are not legally qualified.
7. Complaint resolution officers sift complaints to determine which clearly cannot be considered by the PPSA e.g. complaints over which we have no jurisdiction. All other complaints are then sent on to the Assessment Unit.

(ii) Assessment Unit

8. The Assessment Unit, comprising 4 assessors, using a standard assessment form does a preliminary analysis of new complaints lodged with the PPSA Head Office, to determine the nature of the complaints and whether complaints fall into Early Resolution ('ER') or are to be transferred to Good Governance and Integrity Unit ('GGI'), the Administrative Justice and Service Delivery Unit ('AJSD') or one of the Provincial Offices. It is based on the nature of the complaint. Provinces may also transfer complaints to Head office or inter-provincially.
9. CSM are responsible for referring complainants to other bodies better suited to handle their complaints, rejecting complaints (for example, where internal remedies are not



exhausted or the complaint is outside of the PPSA's jurisdiction), and for advising complainants to ensure an early resolution of the complaint, i.e., if investigation in relation to the complaint is not required and it can be resolved.

10. In the event of any complaint being referred, rejected or subject to early resolution, a '*closing letter*', sometimes referred to as a '*closing report*' is issued either by CSM, or at branch level, and no formal report would be considered or signed by the Public Protector ('PP'), and the matter is then "closed" without even reaching head office or any investigative branch.
11. For example, by far the most complaints received by the PPSA are against the Department of Home Affairs and local municipalities. A decision was taken that the PPSA should not itself investigate all early resolution complaints pertaining to service delivery. Instead there is an understanding with the Department of Home Affairs, NSFAS, City of Tshwane that complaints received, though allocated a reference number and entered on a CSM database, would be populated on to a spreadsheet to be provided to the organ of state from time to time. Once the spreadsheet is handed over, the complaint is closed from the PPSA's side, and a closing report will be issued to the complainant, explaining the referral and providing her with the details of the relevant departmental official who will attend to the complaint. Between April and August 2022, the PPSA received 916 such complaints which, though recorded in its database, were referred to the Department of Home Affairs for further investigation and resolution.
12. The PPSA has similar arrangements with other organs of state, including the City of Tshwane and the South African Social Security Agency. This frees up capacity in the AJSD to attend to other complaints.



13. There is an Assessment Committee that considers the output of the assessors. They have a responsibility to consider section 6(9) of the Public Protector Act, i.e. determining whether the complaint is older than 2 years and, if so, making a preliminary determination whether there are special circumstances justifying the PPSA investigating the complaint. If a complaint is older than 2 years, but the assessor thinks that there are special circumstances warranting the PPSA's investigation, the assessor will record those circumstances in the assessment form for presentation to the Assessment Committee. The complainant may even be engaged to determine whether there are any special circumstances.
14. The Assessment Committee makes a determination on whether there are special circumstances that justify the PPSA looking into complaints older than 2 years. However, the investigative branch to whom the complaint is assigned would still need to give consideration to whether there are indeed special circumstances. The appointed investigator may disagree with the Assessment Committee and close the file.
15. Prior to November 2020, the Assessment Unit allocated new complaints to the relevant investigation branches. After November 2020, the allocation function was partially performed by the former Chief Operating Officer ('COO'), Mr Charles Mohalaba, who allocated GGI and AJSD matters to the Head Office Investigation Unit (with the assistance of the relevant Executive Manager: Investigations, and Chief Investigators). CSM, however, remained responsible for the allocation of matters to the respective Provincial Offices.
16. Mr Mohalaba established an Allocations Committee, but this ceased upon his resignation, leaving the allocations again with CSM. The Allocations Committee was



revived on 1 April 2022 under the leadership of the Acting COO, Ms Lethabo Mamabolo, with the sole purpose of allocating new complaints and investigations to the appropriate PPSA branches.

17. Although there is a general process for allocating new cases to investigators (set out above), in some instances investigators are assigned or allocated new complaints for investigation by the PP directly. There are also own initiative complaints that are registered or third-party complaints referred directly by the PP for registration – and which are then accepted and not subjected to the initial screening processes.

(iii) Customer service

18. The CSM's customer service unit deals with receipt and processing of customer complaints, such as complaints about dissatisfaction with PPSA services e.g. due to delays in finalising of investigations or lack of feedback regarding the complaints lodged. Complaints are also lodged directly with the PP and other PPSA employees which are at times referred to the CSM to resolve.

(iv) Remedial action

19. The Remedial Action Unit has been part of CSM since June 2020 and is aimed at ensuring that the PPSA remedial action is implemented. It monitors implementation and has created and maintains a database for remedial action reports. Prior thereto it was within the PP's Private Office, and later within the CEO's office. It was headed by the Manager: Compliance and when this function was commenced in 2020 as part of CSM there was already a significant backlog of over 250 reports with unimplemented remedial action.



20. The Quarter 1 Report in respect of remedial action compliance was submitted to the Speaker of the National Assembly on 30 June 2022. This summary shows that, in respect of 89 PPSA reports –

20.1. 1% had the remedial action fully implemented;

20.2. 27% had the remedial action partially implemented;

20.3. 62% had the remedial action not implemented;

20.4. 10% were taken on judicial review;¹ and

20.5. 1 report was set aside.

(v) Outreach in the PPSA

21. The PPSA Outreach and Stakeholder Management unit is responsible for maintaining relations with the stakeholders which include the public at large, government departments and local government, community-based organisations, traditional leaders, other ombud offices and other organs of state, to ensure cooperation in efficient resolution of complaints and the implementation of remedial action, and to enhance access to poor and marginalised communities in areas not readily accessible.

22. One of the key objectives of operating outreach programs is to ensure access to PPSA services to the most marginalised members of the community. One way of ensuring this is through outreach, education and public awareness campaigns, as these are more

¹ It did not report on the status of pending cases in detail.



likely to reach communities who are not city-based and do not readily have access to the services of the PPSA or the communications networks that otherwise facilitate such access.

23. Outreach and education functions, in my view, should be a priority for the PPSA. Outreach clinics are hence important. This entails PPSA staff members going to far-flung areas and informal settlements to take complaints and raise awareness by engaging and interacting directly with members of the community. Funding for outreach had to be accessed from and approved by the CEO at Head office, albeit that there was a budget allocated to provinces.
24. In 2017 – when I joined- PPSA undertook to conduct 756 clinics per annum. This entailed 9 provinces conducting 84 clinics per annum, i.e. 7 outreach clinics per province per month. The target was exceeded in the 2017/2018 financial year as 815 outreach clinics were held but the approach did not define clearly where clinics should be held to ensure that accessibility was maximised.
25. In May 2017, as Executive Manager: CSM, I looked at the monthly and quarterly reports from provinces. Taking into account that South Africa has 9 provinces and 278 municipalities (comprising metropolitan, district and local municipalities) with varying populations and varying areas. Given that each province was only being allocated R110,000 per annum, two outreach officers and one motor vehicle, with the latter having to be used for investigations and other administration functions as well, I was of the view that a more focused approach rather than a “one-size fits all” to maximise the use of limited funds was required as provinces had varying needs. The same targets and allocating the same resources – was not necessarily the best way to assist the PPSA to

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achieve its mandate of being accessible to all: the requirements for Gauteng, for example, are very different to the requirements for the Northern Cape. The approach in existence to outreach was that there was no consideration of the size, population and the socio-economic status of each province.

26. During a planning session held, as far as I can recall, in November 2017, the PPSA developed a new outreach strategy (intended to be implemented over a period of 3 – 5 years) to raise awareness of, and facilitate access to, the PPSA at local level. The first phase of the strategy was for outreach officers to conduct outreach clinics in each metropolitan and district municipality, rather than to continue with the previous approach that did not differentiate between the provinces. Once that goal had been achieved, it was intended that the outreach clinics would expand to local municipalities and later to municipal wards, with the plan being to reach the country's more than 4,400 wards.
27. Due to a lack of financial and human resources (discussed below), the new strategy was implemented conservatively. It was first implemented during the 2018/2019 financial year and continued into the 2019/2020 financial year, when the country was hit by Covid-19 pandemic – which of course materially impacted on implementation.
28. Regarding the PPSA's financial constraints, I annex a copy of a memorandum prepared by the PPSA's Acting Chief Financial Officer ('CFO') to the PP, dated 7 February 2018 (marked "NM1"). It sets out the dire financial situation in which the PPSA found itself and the events that resulted in this situation. Among other things, the Acting CFO referred to the insufficiency of the baseline budgetary allocation to cover the PPSA's financial needs; overspending on employee costs; continued mismatch between the PPSA's



allocated budget and its core activities; spending on legal costs; and spending on information and communication technology.

29. The Acting CFO concluded that, without immediate additional funds being allocated, the *“PPSA will not be able to deliver on its constitutional mandate and will not be able to continue as a going concern.”*
30. The memorandum recorded that the PPSA senior management – under my leadership as the then Acting Chief Executive Officer (‘CEO’) – had met twice to discuss the budgetary constraints, which led to the formulation of various cost containment measures. It also recorded that there were *“no funds to continue with core activities (outreach programs and investigations which require travel)”* and therefore recommended that the annual performance plan should be suspended.
31. I signed off on the memorandum on 9 February 2018, which was then submitted to the PP. In addition the Acting CFO and I signed a memorandum for submission to the National Treasury on 22 February 2018. A copy is annexed, marked “NM2”. That memorandum sought to justify the PPSA obtaining a bank overdraft facility of R15 million, to address the organisation’s financial needs. It followed the PP’s request to the Minister of Finance to approve the facility for purposes of accessing bridging finance. Among the measures mentioned in the memorandum that the PPSA would use to curb expenditure was the *“suspension of all travel including outreach clinics – the only travel that is allowed is for key and strategic trips and only on a special motivation basis”*. This would of course impact on outreach initiatives.
32. Under the PPSA’s new outreach strategy, the number of planned outreach clinics in 2018/2019 was 208, and actual achievement was 277. During this financial year the



then CEO, Mr Vussy Mahlangu, issued a circular setting out various cost containment measures, including that provincial offices that had already achieved their outreach targets should not hold further clinics.

33. From the PPSA's records, the number of people reached by the PPSA significantly decreased with the imposition of the new policy between the 2017/2018 and 2019/2020 financial years (being the precursors to the Covid-19 pandemic). I set out below the number of people who attended PPSA outreach clinics in the three consecutive financial years:

PROVINCES	2017-2018	2018-2019	2019-2020
Eastern Cape	2678	2350	1325
Free State	1958	534	446
Gauteng	3146	2133	836
KwaZulu-Natal	2103	1150	1188
Limpopo	2456	1112	781
Mpumalanga	1885	433	291
Northern Cape	2031	736	519
North West	3187	729	1258
Western Cape	2155	895	1021
TOTAL	21599	10072	7665

34. In 2019/2020 planned outreach clinic targets were 208 and actual achievement was 237. During this financial year Mr Mahlangu issued another circular setting out cost

containment measures, again indicating that the provincial offices should consider scaling down on outreach clinics if their annual targets were already achieved.

35. In 2020/2021 though there was a planned target of 208, given the Covid-19 pandemic no outreach clinics were held. Outreach efforts were concentrated on more webinars, radio interviews and simulcast, but even so the total number of new complaints received reduced by almost 50% (2019/2020 – 10111 and 2020/2021 – 5108), only marginally increasing in 2021/2022 to 6749.
36. Even before Covid 19, however, radio broadcasts were a component of the PPSA's outreach activities. All outreach channels have limitations but combined, the PPSA can achieve its mandate of being accessible.

B. ACTING CEO



37. After Mr Themba Dlamini left his position as CEO of the PPSA, the PP asked me to assist her by stepping up as Acting CEO until a permanent CEO could be appointed. My acting appointment lasted from mid-December 2017 until March 2018.
38. I accepted the offer on condition that I will not accept any acting allowance. I viewed this opportunity to act as a learning curve, and I was only holding the fort for the CEO who was soon to be appointed. I had not envisaged the stress that would accompany this position and coupled with an oppressive workplace environment in the PPSA, my health deteriorated during in March 2018.
39. The workplace stresses included the following:



- 39.1. Upon my inquiry into the PPSA's financial position, the Acting CFO informed me that the organisation would not be able to pay salaries as from February 2018 (see the memorandum discussed in paragraph 28 above), thus jeopardising the livelihoods of staff. Furthermore, it appeared that the budgetary allocation for 2018/2019 would be insufficient to support the functioning of the institution. Urgent measures had to be taken to ensure PPSA sustainability.
- 39.2. The interactions regarding Ms Cleo Mosana, discussed below, and the expectation that millions of Rand could be spent to remove her from the PPSA whilst the PPSA was already facing a dire financial situation.
- 39.3. There were no adequate governance structures within the PPSA and, in particular, no body where as Acting CEO I could sit and strategize with executive managers about the institution.
- 39.4. As Acting CEO, I was responsible for the PPSA's administrative affairs. Those matters – policies, employee disputes, finances etc – took up almost the entirety of the working day. However, I was also responsible for the institution's investigation work bearing in mind that at the time there was the backlog project also ongoing. That is a full job in and of itself (after my acting stint, the CEO was responsible for administration and a separate COO was appointed to take charge of investigations). Extremely late working nights and weekend work became the norm as I endeavoured to discharge all of these functions but the pressures built up and eventually overwhelmed me.



- 39.5. Ultimately, I felt that there was no real space for a CEO to function as she should. All I did was rush around putting out fires, which left no time for planning, strategizing and implementing policies to realise medium- and long-term objectives.
- 39.6. I brought my concerns to the PP's attention, but no heed was paid to my concerns. By March 2018 I was overwhelmed and had to vacate the CEO's office in April 2018.
40. Upon my return to work in May 2018 after a health scare, I requested to step down as Acting CEO. I resumed management of the CSM Branch and Mr Vussy Mahlangu was appointed as CEO.
- C. ACTING COO**
41. Shortly thereafter, I was requested by the PP to act in the new role of Chief Operating Officer ('COO') and to assist with the management of the investigation branches. I did so from mid-2018 until December 2018. I also made it a condition that so long as I am acting in the position until the appointment of the COO, I required no acting allowance, taking into account the dire financial situation that PPSA was facing, the fact that this post never had a dedicated incumbent, and it needed to be funded before it could be filled.
42. Prior to 2018, the position of COO had never been filled: the former CEO, like me in my capacity as Acting CEO, had been responsible for both PPSA administration and investigations. It was only when Mr Mahlangu was appointed as CEO that responsibility



for the two areas was separated. Thereafter when Yalekile Lusibane became Acting CEO, she too did not take charge of investigations.

43. As Acting COO I was to play a key role in managing the production of reports arising from investigations. Investigation branches that finalised their cases and issued reports was to reach me and only thereafter were they to be forwarded to the PP for approval. In theory this is how it was to happen presupposing that I would have the time and capacity to actually attend properly to the task.

(i) Rushed Reports

44. At the time the PPSA's focus was to bring investigations to an end and to ensure that reports are issued speedily, meaning that less time was available to interrogate the complaints received in accordance with the applicable laws, policies and procedures. Accepting that there were over 4000 cases carried over to the 2018/2019 financial year and a number that remained outside for more than 2 years, I too wanted to ensure that this was cleared.
45. However, what this meant was that in the management meetings that I attended, the focus was on "*what product will be delivered, and when*", rather than on analysing the complaints, establishing the facts, research on relevant legislation and legal prescripts, consideration of relevant case law in favour or against the proposed findings and the intended remedial action to be taken. An inordinate amount of time was spent in meetings chasing and accounting on deadlines when time could and should be spent on improving reports. The focus was to finalise investigations and issue reports, rather than the integrity of the investigation process and the reasonableness and appropriateness

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of the reports ultimately issued. These were the priorities on which the PP wanted us to concentrate.

46. Reports that were produced in this manner included the report into the City of Tshwane's prepaid capital meters (sometimes referred to as the "*PEU Report*", after the company, PEU Capital Partners, that was awarded the tender for the meters).
47. On 6 November 2018, Ms Mogaladi (the Executive Manager: AJSD) sent me a draft of the section 7(9) letter in the PEU matter. Her cover email recorded: *'I am still working on the draft and it is still incomplete and I am not happy that it must be sent out.'* A copy of Ms Mogaladi's email is annexed, marked "NM3". As I am aware that this was addressed at length in Ms Mogaladi's evidence, and as she is more familiar with the circumstances, I merely refer to it as an example.
48. I do point out that the PP had been insistent that the aforementioned s 7(9) notice be provided to her. It was at my suggestion that Ms Mogaladi included a "*DRAFT*" watermark, and to provide a copy to the PP so as to indicate that both that Ms Mogaladi was working on the matter and had made progress, but also that the draft was not yet in a position where it could be considered by the PP for signature.
49. The PP was most unhappy. By November 2018, the investigation was still ongoing and section 7(9) notices had not yet been issued. Ms Mogaladi explained the various reasons for the delay in issuing the notices. These included the volume of evidence (more than 40 lever-arch files, as well as affidavits from the court proceedings) and ongoing litigation which essentially dealt with the same issues that the PPSA had been requested to look into. Ms Mogaladi noted that she had hardly been getting any sleep, in an effort to

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progress the investigation. A copy of the email correspondence is annexed marked "NM 4".

50. The PP directed Ms Mogaladi to ignore affidavits or evidence from the court process and focus on the evidence acquired by the PPSA. She refused to grant an extension for the section 7(9) notices and stated that '*I EXPECT THE SECTION 7(9) BY END OF BUSINESS TODAY*'.
51. Ms Mogaladi did not submit the section 7(9) notice as required by the PP. The PP viewed this as executive management undermining her, which she could not tolerate. She directed Mr Mahlangu to serve a '*final written warning or warning*' on Ms Mogaladi, and on me '*for not also ensuring that as supervisor that is done per [her] instruction*'.
52. I pleaded with Ms Mogaladi to submit the section 7(9) notice as a matter of urgency. Ms Mogaladi continued working on the PEU investigation and the required notices. This included engaging with Mr Nemasisi, the PPSA's Senior Manager: Legal Services, regarding the notices. From the email correspondence annexed, marked "NM5", it will be noted that Ms Mogaladi emailed Mr Nemasisi at 03h32 in the morning when she was working to progress the investigation.
53. While I noted to Ms Mogaladi that the investigation had taken a long time to progress, I supported the view that the matter should be properly investigated and that PPSA should discharge its legal obligation to provide implicated persons with an opportunity to respond to the allegations. I suggested that Ms Mogaladi should provide the PP with timeframes for the section 7(9) notices.
54. Ms Mogaladi then sent the following email to me:



"I decided to take this matter offline with you. I am doing everything possible to submit a correct s7(9) letter on this matter and the reality is that we have always been raising the challenges that the same issues are pending in court.

As regards writing a memo to PP I am not sure if at this stage a memo to PP will help, as stated I am really frustrated about this matter and I am doing everything possible to submit. As stated and explained in my email, the delay is not aimed at disrespecting or undermining PP, there are challenges that if not addressed properly will embarrass us and I cannot submit an incorrect letter or to PP, that would be malicious compliance and I cannot do that."

55. I responded as follows:

"My request to update PP on the latest steps to be taken regarding PEU matter is in no way malicious. I just wanted you to inform her that to adhere to the provisions of the PP Act, you will be writing to implicated officials and PP should not expect the s7(9) notice now. From our discussion about PEU and the legal advice given, s7(9) notice will not be issued before December 2018, that is my speculation. For instance, you may need to interview the implicated officials, they might want to see you face to face and, you must give them an opportunity to respond before issuance of the notice. I needed you to disclose this fact so PP would know that this matter has a chance to go way over December 2018. Suggested timelines are in relation to probable tasks that you need to undertake to get to the s7(9).

Due to the pressure given, the CEO wanted me to explain the cause of the delay in issuance of the notices for PEU, uMzimkhulu and EFF and I have provided a written explanation in line with our discussions and the legal advice given. I cannot compel you to issue an incorrect/unlawful notice, PPSA must issue factually correct notices and reports that are of high quality. But my failing to push for issuance of notices / reports has resulted in me getting warnings. I am between a rock and a hard place unfortunately Pona."

56. Ms Mogaladi acknowledged that she would prepare a memorandum for the PP and reiterated that she would avoid '*submitting a section 7(9) letter that I know can easily land us in trouble*'.

57. Despite our genuine commitment to ensuring a thorough investigation in line with the PPSA's mandate, the PP was not interested in considering the abovementioned investigation-related justifications for delays in investigations, notices and reports.

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58. I should also point out that as Executive Manager this would not have been the only case that Ms Mogaladi would be working on. There were a number of other matters that she also had been required to attend to at the same time, other meetings to attend and chief investigators and investigators that would have required her input, apart from her working on the matter. So too was the case with me.

(ii) **Audi letters**

59. The PP would not merely insist that investigation procedures be rushed. She would also require that action be taken when staff did not rush procedures. I mentioned as much to Ms Mogaladi in my email correspondence (see paragraph 55 above).

60. On 20 November 2018 Mr Mahlangu complied with the PP's instruction and issued me a with an *audi* letter. A copy is annexed, marked "NM6". As evident from Mr Mahlangu's letter, it was alleged that I was '*supposed to ensure that the said Section 7(9) is submitted to the Public Protector as per her instruction.*' Furthermore, the PPSA sought to discipline me because I '*accepted Ms Mogaladi's explanation despite the fact that [I was] aware of the Public Protector's deadline where she explicitly indicated that no extension will be granted.*'

61. In effect, Mr Mahlangu was contemplating disciplinary action against me because I had considered Ms Mogaladi's reasons for not complying with the PP's demand, and found them to be reasonable. I remain of the view that Ms Mogaladi's reasons were genuine investigation-based justifications. I did not think it was appropriate to subject me to disciplinary action for "*listening to the other side*", when that quite literally is the point of the *audi* process. This was tantamount to victimisation.



62. I responded to the *audi* letter on 10 December 2018. A copy of my response is annexed, marked "NM7". I was not subject to further disciplinary action in respect of the *audi* letter of 20 November 2018.
63. In my view, *audi* letters can be used as a valuable management tool, as a means of genuinely engaging with an employee who a manager perceives not to have been performing. The exchange can facilitate better understanding, so that the employee understands what is required and the manager understands the challenges the employee is facing (whether personal or professional). Furthermore, the *audi* letter should only be issued after the relevant manager has provided the employee in question with mentoring and training, and the employee has not responded appropriately. This is not the reason or purpose for which *audi* letters were sent – or managers were instructed to send.
64. Under the PP and Mr Mahlangu *audi* letters were tools which invoked the fear of punishment that could ultimately result in a job loss. It matters little whether this occurred or not. These letters were issued even though the PP had been provided with the full explanation of why a work product had not been produced. It was a means to get that explanation in writing as part of a form of disciplinary action, which obviously could be used against you later as *audi* letters were seen as evidence of poor performance and/or a pattern of misconduct, that could be utilised by the PP and/or the CEO as proof in disciplinary proceedings should they wish to institute disciplinary action. This played out in the disciplinary proceedings against Ms Mogaladi, Ms Sekele and the late Mr Madiba.



65. The invocation by the PP and Mr Mahlangu to *audi* letters and the issuing of instructions by the PP orally in meetings that such letters must be issued contributed to the hostile and toxic working environment in the PPSA.
66. Another example of their misconception of the role of *audi* letters relates to Ms Sekele.
- 66.1. On 18 May 2018, the PPSA's communications staff sent the PP and the Deputy PP a media monitoring report. These reports dealt with the media's coverage of the PPSA and PPSA reports. The PP sent me, the Acting Chief of Staff (Ms Linda Molelekoa) and the Senior Manager: Communications (Mr Oupa Segalwe) a request for a briefing memorandum on one of the issues referred to in the report – an investigation in the City of Tshwane.
- 66.2. Ms Lesedi Sekele was the investigator dealing with the complaint. I requested her to draft the memorandum that the PP requested.
- 66.3. Ms Sekele later informed the PP that the matter had not progressed because an administrative assistant had not posted the requisite correspondence. The PP then requested me to deal with this lapse and was concerned that media would discover that the PPSA had failed to deal with the matter.
- 66.4. A copy of the above email correspondence is annexed, marked "NM8".
- 66.5. On 4 June 2018 Mr Mahlangu (the CEO) instructed the Senior Manager: Human Resources, Mr Gumbi Tyelela, to issue disciplinary warnings to a number of PPSA employees, including to Ms Sekele, for allegedly failing to conduct the City of Tshwane investigation promptly and for only discovering

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that the abovementioned correspondence had not been sent as a result of media reporting.

- 66.6. In response Mr Tyelela indicated to Mr Mahlangu that Ms Sekele and the other employees could not yet be issued with warnings – they first had to be afforded an opportunity to respond to allegations against them.
- 66.7. Later that day, Mr Tyelela informed me of the instruction from Mr Mahlangu. A copy of his email correspondence is annexed marked "NM9". I did not do so. I was not aware of the circumstances of the alleged transgression, I did not have the relevant background and she did not report to me when the cause of action occurred. I never issue an *audi* to a person who does not report directly to me (because that would interfere with the relevant manager's managerial prerogative), and I never issue an *audi* to a person whose circumstances I do not know, or a person whose behaviour I have not attempted to correct through training, coaching and mentoring.
67. As Acting COO, I felt that I should be a guide to investigators. However, given the PPSA's priorities at the time, I felt that I was required to be more of a whip, threatening them with consequence management (i.e. disciplinary action) in the event of missed deadlines. I had to focus on "*product will be delivered and when*". This is evident from my exchange with Ms Mogaladi discussed in paragraphs 53 – 56 above.

(iii) Time constraints

68. In as much as the investigators will do their research and make their findings based on their research, I believed that as the Acting COO I still had to consult and confirm



research done, and satisfy myself that the legislation applied is correct, and also consider if there were relevant court judgements, or PP reports that were issued with the same facts and issues. However, in practice, this was not possible to do as the ACOO: there simply was not sufficient time, given the deadlines to which reports were held. It could take up to a day to go through one report properly. There were too many reports, and I did not have enough time: I would often receive reports from the investigators on the day that they were due to the PP or when the media briefing had already been scheduled. That left me with little or no time to engage with the substance of the reports.

69. In a number of instances I was able to refuse to sign off on reports with which I was not satisfied and would send them back to Executive Managers to consider further issues, even in the face of time pressures and deadlines. By way of example I annex –

69.1. “**NM10**”: comments to Mr Ndou requiring a report to be revised rather than sent on to the PP; and

69.2. “**NM11**”: comments to Mr Sekele, returning a report so that more information could be provided.

70. Over time, I required reports to be submitted to me a week or two before the due date for submission to the PP, in an effort to build in sufficient time for me to engage in a genuine quality assurance function. Nevertheless, given the lateness of submissions and the volume of reports, it remained impossible to adhere to the PP’s deadlines and do a thorough job of vetting reports.

71. The COO post was reduced to being a proof-reader rather than a quality assurer, and I found it had no value-add to the reports to be issued. I did not have sufficient time to

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ensure that the reports could withstand judicial scrutiny or to undertake an independent assessment of the contents of the report.

72. I was of the view that it was better to step down as Acting COO. This was particularly so given that I had seen the PP willing to take action against employees who were trying to ensure thorough investigations and had in fact been issued with an *audi* myself in those circumstances. The stress, the overwhelming pressure flowing from the PP's impractical deadlines, low staff morale, tension and toxicity in the office and the unhappiness and fear instilled in the PPSA's investigating staff were all too much for me to deal with. The role was not what I had expected when I had agreed to take it. I expected well researched reports, thorough brainstorming and debating and critical analysis of the reports, skills transfer, learning from newly qualified lawyers, development of investigators and management through information sharing, mentoring and coaching.
73. After I stepped down as Acting COO, Ms Basani Baloyi was permanently appointed to that position as from 1 February 2019. Mr Lucky Mohalaba occupied the post from May 2020 to September 2021. Thereafter Ms Lethabo Mamabolo was appointed as Acting COO from October 2021 until June 2022. Ms Nelisiwe Nkabinde has been Acting COO since July 2022. Since January 2022 the CEO, Ms Thandi Sibanyoni was tasked to oversee investigations, with the ACOO to report to her, in addition to her responsibility for the institution's various administrative functions.

D. ACTING EXECUTIVE MANAGER: GGI

74. At some point in mid-2018, Adv Stoffel Fourie was moved from being Executive Manager: GGI to Provincial Representative: Eastern Cape. Whilst I was never formally appointed as the Acting Executive Manager: GGI, as Acting COO, those in the GGI unit



then had to report to me directly as no one was immediately appointed to replace him, even in an acting capacity.

75. However, that meant that the GGI investigators, including Mr Madiba, did not have an Executive Manager to whom they could, among other things, submit their reports.

E. UNHEALTHY WORKING ENVIRONMENT

(i) Culture of fear

76. The various reporting meetings that the PP required us to hold – leadership meetings, dashboard meetings, task team meetings – became gatherings of fear, both for attendees and for those affected by the meetings, alert that as deadlines were not met that at any time an *audi letter* would be ordered.
77. At those meetings, the PP would insist that a particular milestone be identified, and that a deadline be recorded for that milestone. For example, if an EM was reporting on a particular investigation, the EM might be required to issue a section 7(9) notice by a particular date. I experienced this during the short stint when I was the Acting COO.
78. If the PP was unhappy with that deadline, the PP would impose her own deadline, leaving no room for argument with that deadline being recorded. Once so recorded the PP would often refuse to accommodate any extensions thereto, even if they were motivated on the basis of legitimate, investigation-related considerations. Meetings could therefore result in unreasonable deadlines imposed that were, from the outset, unlikely to be achieved. Whilst it was so that there were complaints outstanding for more than two years that needed attending to, it did not mean that the investigators charged with those investigations were the ones that had not conducted it; or that those were the only cases



they had to deal with or that it meant that the outstanding issues could readily be resolved. I realised that it was the complexity of many matters that resulted in them not being finalised.

79. For example, I annex a copy of an extract from a GGI Task Team submission as at 23 November 2018 (annexure "NM12"). It refers to an investigation into the Department of Transport, regarding panel van conversions. It records that, initially, the report was due to be finalised 31 March 2018. However, that was plainly an unreasonable and impractical deadline: by August 2018 section 7(9) notices were still being prepared and in October 2018 meetings with interested parties were still being held. It makes little sense to insist on deadlines that are unrelated to the realities of an investigation, and only creates unnecessary stress.
80. At the next meeting, the EM would have to account for whether the deadline had been met and, if not, explain why. Quite often, in investigations, it is necessary to have a flexible approach to deadlines, because they may be complex matters (more complex than initially thought), there may be an issue with the availability of witnesses, and organs of state who need to submit information, and more often than not this does not happen timeously and the investigator is asked to extend deadlines, a refusal of which may well be pointless.
81. This further plays out in an institution such as the PPSA, which is significantly under-capacitated and where investigators do not have the luxury of only working on one or a few cases and do not have adequate resources to expedite investigations – even transport to interview witnesses was an issue.

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82. However, the PP was generally not interested in listening to any explanations for missed deadlines, no matter how genuine or reasonable they were. In this manner, unreasonable deadlines would have to be rigidly adhered to. As an example, I have discussed the PEU investigation above.
83. Rather, and despite the EM apprising the PP of the reasons for the delay, the EM would be required to issue an *audi* letter to the responsible investigator or staff member (i.e. a letter calling on the individual to explain why (s)he should not be subject to disciplinary action), or would be threatened with disciplinary steps themselves, sometimes in the presence of colleagues and junior personnel. Aside from the prospect of disciplinary action threatening staff members' livelihood, these threats – and the manner in which they were delivered – were humiliating.
84. As far as I can recall, I was issued with an *audi* letter in respect of the failure to finalise the Department of Transport matter referred to in paragraph 79 above, along with many other "old cases". I have not been able to locate the letter. However, I have been able to locate my response, a copy of which is annexed, marked "NM13". Among other things, I explained that, as Executive Manager: CSM, I was not responsible for investigations and had never been required to conclude investigations within four months.
85. I agree that the PPSA should aim to reduce its backlog of cases, and that deadlines should be set in this regard. However, those deadlines should be set with due regard to the nature of the PPSA's work, and the challenges associated with finalising old cases (such as absence of original investigators and lack of evidence). They should not be established in a blanket and impractical fashion, which renders them likely to be missed from inception, particularly in circumstances where missed deadlines are likely to result

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- in *audi* letters. That only aggravates the workplace and intimidates the employees charged with investigations resulting in corners being cut to meet expectations.
86. During 2018, I had been issued with another *audi* letter. I have also not been able to locate this letter, but it related to alleged failure to ensure compliance with the PP's instructions. My response (annexure "NM14") shows that, in fact, I had ensured compliance, and that I was buckling under the pressure of acting as COO and assuming responsibility for GGI in the wake of Adv Fourie being posted to the Eastern Cape.
87. The PPSA is the harshest environment that I have ever worked in. There was distrust amongst staff members, uncertainty and insecurity, fear and increased applications of sick leave by staff members.
88. Given this environment, the PPSA had not been functioning as well as it could. With many staff members in constant fear of *audi* letters and unreasonable workplace discipline, as well as relentless stress from working long hours, many people take sick leave and work not getting done. The unreasonable deadlines, and threats of discipline and *audi* letters, and general workplace stress have an adverse effect on PPSA staff's ability to undertake investigations, deliver reports that can withstand review in court and discharge other PPSA functions.

(ii) Draft watermarks

89. During my stint as Acting COO, one initiative I introduced – in an attempt to assist the investigators reporting to me to cope with their deadline pressures – was to place the "DRAFT" watermark on reports that were due for submission but not yet complete. The PP lambasted me for this initiative. As far as I can recall, this happened during the

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strategic planning meeting in 7 – 8 November 2018 in the presence of external and internal stakeholders, including all PPSA executives, senior managers and junior support staff members.

90. The PP had copies of the draft reports circulated. She indicated that she did not want “draft” reports. She wanted final reports and did not care about the explanations that were provided to me by Ms Mogaladi and Mr Madiba or the extent to which certain avenues still needed to be explored or certain aspects of the investigation closed off. The PP used the draft reports to indicate to the meeting’s attendees what she viewed to be the unacceptable work that she received from her staff.
91. The PP mentioned that the reports were long overdue, which was true, without any acknowledged of the workload and the circumstances under which she was expecting the impossible from the investigation teams. All that mattered was that the reports were not completed and could not be signed and issued.
92. The introduction of the watermark was an endeavour to avoid the precipitous signature of shoddy or incomplete section 7(9) notice and/or reports.
93. The manner in which the PP spoke publicly about the work she had received to the meeting’s attendees made me feel humiliated, embarrassed, victimised and belittled.

(iii) Working hours

94. Under the PP, we had to work very long hours. We would often work late into the night, or into the early hours of the morning. We would also regularly work on weekends. Executive Managers, Chief Investigators and Senior Investigators worked abnormally long hours.



95. Technically, the PPSA's working hours are 08h00 – 16h30. This is reflected in various emails which show the hours outside of normal working hours that PPSA staff were required to work. The evidence leaders have indicated that these would not be annexed to the affidavit but instead uploaded to the electronic bundles available to the Committee and the parties, for ease.
96. The PP required Executive Managers to sit in meetings that would last for hours, if not days, to account mostly on the deadlines and progress of deliverables of work rather than debate the substance/merits of the contents of reports being prepared by those reporting to the EMs. These meetings would then eat into the time required to perform our other functions – i.e. managing our respective branches and various PPSA operations – and require us to work very long hours to discharge those functions.
97. The meetings also became more frequent and more intense. For example, Dashboard meetings initially occurred on a quarterly basis and focused on backlog cases and the overall performance of each PPSA branch. Later, they occurred more frequently, almost on a monthly basis. Dashboard meetings have now gone back to being held on a quarterly basis, but there are other meetings that occur more frequently (such as Task Register).
98. Under the PP, Dashboard meetings became more expansive, and included reporting on all active cases. Although I reported on CSM functions, I was expected to sit through other presentations dealing with *"what product and when"*. That was a significant increase from previously only reporting on backlog cases. Responsible EMs would be required to report on each ongoing case for which they were responsible, which took up a great deal of time. The reporting required for a Dashboard meeting therefore deprived

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the organisation of significant time that would otherwise have been devoted to its core functions.

99. Taking leave by Executive Managers is not encouraged; we end up offering reasons for why we are taking annual leave, even though we are entitled to do so.
100. In January of every year, when the PP comes back from her festive season leave, she indicates that clearing the backlog must be prioritised and leave should not be taken until backlog cases have been finalised.
 - 100.1. In December 2021, I did not take leave so that staff in CSM could take leave. This was with the understanding that I would take leave in January 2022, in accordance with my leave plan.
 - 100.2. However, the Acting COO then indicated that we had to prioritise finalising the backlog cases and prepare for the next Dashboard, so leave was not permitted to be taken in January 2022. The Acting COO announced this as a decision of the PP.
 - 100.3. In February and March 2022 I could not take leave because I was required to attend the PP's roadshows. I complied and was exhausted after the roadshows. However, I was then told by the Acting COO that I could not take leave until after the April 2022 Dashboard.
 - 100.4. I then applied for leave again, by which time I had accumulated 40 days of leave and was at risk of forfeiting some of those days if they were not taken before



the end of June 2022. A copy of the correspondence in this regard is annexed, marked "NM15".

- 100.5. The Acting COO tried to convince me to cash in my leave instead of taking it. However, I needed the time off for my own health.
101. Although I demonstrate this with reference to the most recent example, this has not been the first instance where annual leave is refused due to investigative backlogs. It is simply a perpetuation of what had been experienced by others in the past. As manager I had to refuse leave twice for operational reasons.
102. The effect of the conditions and as vacation leave approval was not a given, staff started taking more and more sick leave. I motivated more to get approval for annual leave than any other leave.
103. It reached the point where I applied for early retirement. The PP indicated that she would approve the early retirement, even though she did not yet have the documentation and had not yet engaged with the CEO. However, GEPF would have required a significant penalty from the PPSA (more than a million). I gave notice and intended to apply for medical boarding, but due to much-improved working environment and reduced stress levels I retracted my notice.
104. The lack of leave, and the hostile approach to leave within the PPSA, made the working environment difficult for employees to cope with and undoubtedly impacted on the work environment.



(iv) Ms Mogaladi

105. Ms Mogaladi has been able to provide her own evidence of her workplace experiences under the PP. Below I relate some incidents which supplements her evidence and of which I have personal knowledge.
106. One night, while I was working late at the office, Mr Kabinde (the PP's personal assistant) asked me to go to Ms Mogaladi's office. There I found her crying at her desk while typing a report. She had suffered a bereavement of a close relative but was not able to be with her family because the PP had insisted on a report being furnished.
107. I called the PP, at around 20h00, to inform her about the situation and indicate that no one could prepare a meaningful report in Ms Mogaladi's condition. The PP insisted that she wanted the report. However, I held firm, and asked the PP to hold me responsible for the production of the report, but only to allow Ms Mogaladi a day with her grief, attend the funeral, and then to resume the report on the following Monday. The PP eventually agreed, subject to the condition that I took responsibility.
108. Notwithstanding the allocation procedure described earlier in my affidavit, there are cases that have been allocated directly by the PP upon receipt of a complaint. This happened, for example, in an investigation into the confiscation of electronic devices by the Hawks, and their arrest of an activist and political influencer (see annexure "NM16").
109. Regarding the FSCA complaint: while I was Acting CEO, the PP called me into her office and told me she was taking the FSCA investigation away from the assigned investigator, Mr Matlawe. She did not, as far as I can remember, provide me with any reasons. I did not have any knowledge of the matter at that stage.



110. The PP informed me that the matter was complex, and that she needed investigators who would be able to handle it. She asked for recommendations as to who could replace Mr Matlawe. I recommended Mr Madiba and Ms van Eeden, as I considered them to be among the PPSA's best.
111. The PP then asked me to call Mr Madiba and Ms van Eeden into her office, which I did. At that point she allocated the investigation to them and directed them to the two boxes of evidence (containing lever-arch files of documents). Thereafter I was not involved in the investigation, and I do not know how it ended up with Ms Mogaladi and Ms Sekele.
112. While I accept that there is nothing wrong with the PP taking an interest in classifications and assessments, and even in the appointment of investigators, it should be done through the proper channels. This sort of direct intervention in operational matters, circumventing the lines of authority, makes it difficult for managers to ensure that the relevant personnel are held accountable.
113. Later on, the PPSA wanted to discipline Ms Mogaladi, Ms Sekele and Mr Madiba because the FSCA report was set aside by the High Court. Mr Mhlongo (the Senior Manager: Legal Services) indicated that the PPSA would '*require someone senior*' to corroborate the evidence Ms van Eeden (the intended lead witness) and to testify regarding charges such as insubordination.
114. The PP directed that I should give evidence against Ms Mogaladi '*on handing over the matter to her as acting COO, and requesting her to take action [against] Madiba for failure to finalise the section 7(9) on the promised date*' and '*on how the matter was dealt with on handing over to Ms Mogaladi*'.

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115. A copy of the relevant email correspondence is annexed to this affidavit, marked "NM17". The PP's reference to an *audi* in respect of Ms Mogaladi shows why many employees feared the *audi* letters would be used: as evidence of a pattern of misconduct should the PP wish to hold a disciplinary hearing.
116. However, as far as I know, the FCSA matter was never allocated to Ms Mogaladi. I therefore could not give the evidence that the PP wanted. Mr Mhlongo interviewed me twice about the matter, but I consistently told him that my involvement had been limited to what I have said above and that I had no knowledge implicating Ms Mogaladi. In the end I was never called to testify against Ms Mogaladi.

(v) Ms Baloyi

117. Ms Baloyi was appointed as the COO and, as an EM I reported to her. I have never met such a hands-on hard worker, or dedicated public servant, in my entire career. She would regularly work very long hours, even from 08h00 one morning until 04h00 the next morning and would thereafter return to office for a full day's work. This happened even when her 8-year old daughter was hospitalised: Ms Baloyi would leave the office very late in the evening to spend the night with her daughter in hospital then come to work the next day until her daughter was discharged.
118. Ms Baloyi resisted the PP's insistence that she, as COO, issue *audi* letters to every EM. However, I recall that one night, I found Ms Baloyi broken and sitting in her office, mulling over the prospects of her employment being terminated as she was still on probation. She said she had reached the end of the road in that if she does not comply with the PP's instructions to charge us, she is going to be terminated. She was broken and as a single parent, had two dependent children. I asked her what the reasons were advanced

for issuing *audi* letters to EMs. She advised that we failed to eradicate the backlog of cases older than two years. As I understood the purpose of the *audi alteram partem* principle, it meant that EMs will be given an opportunity to give reasons for this alleged failure (even though I was not doing investigations). I suggested to her that she just issue the EMs with the *audi* letters so we can provide the reasons to PP with the hope that she will know and understand our unbearable circumstances. It was clear that Ms Baloyi was overwhelmed by the pressure to which the PP subjected her and advised her that the *audi* will provide us an opportunity to be heard.

119. Ms Baloyi had the responsibility of having to address the backlog in investigations. She made great strides and a significant contribution in this regard. Even though I was responsible for CSM and not directly involved in investigations, I assisted Ms Baloyi in compiling and managing the backlog database and there had been significant inroads made.
120. Ms Baloyi was also given unreasonable and unmanageable deadlines. Each investigation has its own particularities. Some investigations dated back many years, preceding her appointment. Some investigations involved uncooperative organs of state and some concerned very complex matters.
121. That sort of top-down imposition ignored the realities that the investigators had to deal with and so was unworkable. Ms Baloyi was attempting to work within more realistic deadlines, having consulted the investigators and understood the constraints within which they were operating. She was also attempting to avoid cases of malicious compliance, where investigators would submit reports simply to submit a document by a

particular deadline, without taking the necessary care to ensure a product of the appropriate quality.

F. THE DISPUTE REGARDING MS CLEOPATRA MOSANA

122. During January 2018, while I was Acting CEO, it was brought to my attention that a dispute had developed between the PP and one of her direct reports – her spokesperson, Ms Cleopatra Mosana. I do not know, and cannot recall ever being informed by the PP, as to what the dispute was. I was simply informed that Ms Mosana's services as spokesperson needed to be terminated because of a breakdown in the relationship with the PP.
123. When I got to the office on the day in question (I cannot now recall the specific date, although it was a day when I was on leave, and I was only in the office to attend a specific meeting), I was informed by Mr Tyelela, Mr Nemasisi and the Acting Chief of Staff (Ms Molelekoa) that they were in the process of negotiating a settlement package in respect of Ms Mosana's departure. Ms Mosana had at that point recently been appointed on a fixed-term contract. The settlement contemplated paying Ms Mosana out for the balance of her contract period, or a portion thereof, at a cost that could have exceeded R5,000,000, as far as I recall.
124. As Acting CEO I was requested to take note of the engagement with Ms Mosana, with a view to ultimately approving the settlement. However, I was concerned that it would amount to fruitless and wasteful expenditure to pay out the balance of Ms Mosana's contract and frankly given the PPSA's state of finances at the time we could not incur this cost.

125. I was of the view that, rather than paying out such a large sum of money, there were other viable solutions to resolve the impasse, including, first, training, mentoring and coaching; second, initiating a disciplinary procedure should she continue to underperform; or third, if the relationship had indeed broken down irretrievably between Ms Mosana and the PP, then transferring Ms Mosana to a position outside the Private Office, on the same level that she occupied and without losing her benefits.
126. I advised the PP about the alternatives available that can ensure that the PPSA does not incur fruitless and wasteful expenditure. The PP indicated that I should put the proposal in writing for approval. Since I refused to approve severance pay for Ms Mosana, I requested to transfer Ms Mosana to CSM and transfer Ms Sekele from CSM to Investigations (she was an admitted attorney and able to alleviate the pressure within Investigations). A formal proposal was drafted and submitted to the PP for approval.
127. To get her buy-in, I needed to consult and engage with Ms Mosana so that I could explain the financial status of the PPSA and the reasons for the alternative proposal I made. Through Mr Tyelela we arranged to meet with Ms Mosana to communicate the proposal, which was by then approved by the PP.
128. On the date of consultation and whilst we were about to engage Ms Mosana, I received a call from the PP and she told me that she heard that I was meeting with Ms Mosana and she wanted to know the reasons for the meeting. I informed the PP that Mr Tyelela and I would be serving Ms Mosana with the letter containing an offer to transfer her to CSM and we wanted to explain the grounds for the proposal for transfer and get her views on the matter. The PP told me in no uncertain terms not to discuss anything with

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Ms Mosana, just to give her the letter and tell her to leave the office and go consider the offer at home. That is what I did.

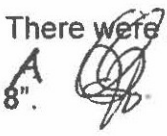
129. As a result Ms Mosana was, without any proper consultation, simply transferred to the position of Senior Manager within the CSM branch, where she continued to earn the same salary. Ms Mosana challenged her transfer before the Commission for Conciliation, Mediation and Arbitration ('CCMA'), which concluded that Ms Mosana had, in fact, been unfairly demoted. She was awarded around R520,000.00 in compensation, as far as I can recall. This was, however, substantially less than the amounts contemplated in the negotiations for the settlement package. I believed that the CEO would accept this outcome and it would result in the end of the year-long conflict with Ms Mosana.
130. However, in May 2019 Ms Mosana came to my office to advise me that she had tendered her resignation, which had been accepted by the Human Resources Department. I immediately took her to the COO's Office (as the Head of PPSA core functions) so that she could inform the COO about this sudden change of events. The COO, Ms Basani Baloyi, had a discussion with Ms Mosana to get the reasons for her resignation.
131. Ms Baloyi ordered me to retract Ms Mosana's resignation. I asked her to issue me with a written instruction. I believe that if Ms Mosana wanted to withdraw her resignation, she should be the one to retract it. I received no written instruction and did not withdraw Ms Mosana's resignation.
132. I later learned that Ms Mosana had lodged a case against the PPSA for constructive dismissal, in which she was successful.



G. VREDE

133. The Vrede investigation did not fall within my responsibilities as Executive Manager: CSM. I do recall seeing the report presented at the Think Tank (I think it was in August 2017) and, in particular, I recall the pictures of the gate and security structure that allegedly cost more than R2,000,000. I could not believe that such structures could cost such an excessive amount of money. It seemed to me that such conduct must have entailed wrongdoing.
134. However, I had some interactions with the report being finalised during my stint as Acting CEO at the beginning of 2018. At that stage (unlike the case under Mr Mahlangu or Ms Lusibane), the CEO had responsibility for both the PPSA's administration and its investigating operations. Accordingly, it was expected that I would at least be provided with the opportunity to consider the Vrede report before the PP signed off on it.
135. I was, however, never party to the finalisation of the report in that I never scrutinised or revised the contents thereof: the final version of the report should have been signed off by Mr Ndou, as the relevant Executive Manager for Provincial Investigations, and then submitted to me, as the Acting CEO. Once I had checked the report, I would have submitted it (with my input if any) to the PP but that never occurred.
136. On 22 January 2018, the PPSA received a request from the SABC for an interview regarding the status of the Vrede investigation. The PP required Mr Ndou to prepare a memorandum on the status of the investigation and to remind Mr Maimane to send the PPSA information about the intended Vrede beneficiaries. On the next day, I followed up with Mr Ndou as to whether he had prepared the memorandum for the PP. He indicated that the memorandum was being prepared, and that he had already drafted the request



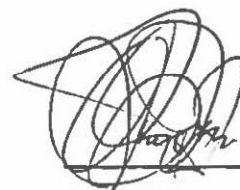
to Mr Maimane regarding the beneficiary information. A copy of the email correspondence is annexed to this affidavit, marked "NM18". There were further media requests for the release of the report. See, for example, "NM18". 

137. On 6 February 2018 I informed Mr Ndou that the PP wanted the Vrede report to be finalised urgently because, as far as I can recall, it was long overdue as the PP had previously given an undertaking that it would already have been released. A copy of my email correspondence is annexed to this affidavit, marked "NM19".
138. By the following day, Mr Ndou had still not delivering as required, even though I had made the PP's requirements clear to him and he had not complied or explained any difficulties he was facing. I emailed him accordingly. A copy of my email correspondence is annexed to this affidavit, marked "NM20".
139. On 7 February 2018, Mr Ndou sent a draft of the Vrede report through. Shortly thereafter, the PP responded to indicate that she was not happy with some aspects of the report, and directed Mr Ndou and his team, as well as Mr Nemasisi (the Senior Manager: Legal Services), to attend a meeting at 10h00 on the following morning to work through the report. I was unable to attend that meeting, as I was due to be present at a Risk Committee session.
140. I did not consider the draft that Mr Ndou sent through, because it was clear that it still required revisions to be implemented. Only once Mr Ndou had implemented those revisions would I have considered the report and then passed it on to the PP.
141. Mr Ndou ended up not being present for the finalisation of the Vrede report. The PP wanted me to initiate disciplinary action against him as a result of his absence. When I



sent him an *audi* letter, he explained, among other things, that he had been on approved leave on the day the PP required him to attend the office. In my view, that was a satisfactory explanation for his absence.

142. During the evening of 7 February 2018, Mr Nemasisi circulated his '*final comment*' on the Vrede report. He listed various concerns in his cover email but indicated that they could be addressed so that a final report could be issued by 22 February 2018.
143. A copy of the draft that Mr Nemasisi circulated – reflecting his comments and tracked changes was circulated. As far as I can recall, I never responded to the concerns expressed by Mr Nemasisi, either in his email or in his comments on the draft report, because those concerns still needed to be processed by Mr Ndou and his team before a revised draft was submitted to me.
144. As mentioned above, I had no input into the final report as Mr Ndou never submitted a final draft for my consideration and, on 8 February 2018, I had to attend another PPSA meeting. The PP informed me that Ms Molelekoa and Mr Nditsheni Rendani were involved in the finalisation of the report, because no one else was available to assist her. She indicated that it was a shame that Mr Ndou and I had not been involved.
145. I heard, once it had already happened, that the report had been finalised and issued on 8 February 2018. I am not aware, for example, of whether, or the extent to which, Mr Nemasisi's concerns were addressed. I have no knowledge as to why this report had to be finalised in that particular week.



NTHORISENG MOTSITSI



I certify that the above signature is the true signature of the deponent and that she has acknowledged that she knows and understands the contents of this affidavit which affidavit was signed and sworn to before me in my presence at PRETORIA on this 2nd day of 2 **SEPTEMBER 2022**, in accordance with Government Notice No R1258 dated 21 July 1972, as amended by Government Notice No R1648 dated 19 August 1977, as further amended by Government Notice No R1428 dated 11 July 1980, and by Government Notice No R774 of 23 April 1982.


COMMISSIONER OF OATHS

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