

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

CASE NO. 48/2017

In the matter between

**SOUTH AFRICAN SOCIAL SECURITY AGENCY**

First Applicant

**CHIEF EXECUTIVE OFFICER, SOUTH AFRICA SOCIAL  
SECURITY AGENCY**

Second Applicant

and

**MINISTER OF SOCIAL DEVELOPMENT**

First Respondent

**BLACK SASH TRUST**

Second Respondent

**MINISTER OF FINANCE**

Third Respondent

**NATIONAL TREASURY**

Fourth Respondent

**CASH PAYMASTER SERVICES (PTY) LIMITED**

Fifth Respondent

**INFORMATION REGULATOR**

Sixth Respondent

**SOUTH AFRICAN POST OFFICE SOC LTD**

Seventh Respondent

**FREEDOM UNDER LAW NPC**

Eighth Respondent

And

**CORRUPTION WATCH (NPC) RF**

First Amicus Curiae

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**FILING SHEET**

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**KINDLY TAKE NOTICE** that the following documents are presented for filing on behalf of the First Respondent:

1. First Respondent's Affidavit.

Dated at **JOHANNESBURG** on this 18th day of May 2018.



**HARRIS NUPEN MOLEBATSI INC**

**Attorney for the First Respondent:**

**Minister of Social Development**

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Ref: B Molebatsi / R Makhetha

**TO: THE REGISTRAR OF THE CONSTITUTIONAL COURT  
CONSITUTIONAL HILL  
BRAAMFONTEIN**

**AND TO: CENTRE FOR APPLIED LEGAL STUDIES SERVICE BY EMAIL**

**Attorneys of the Second Respondent:**

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Ref: BHR/0062/NN

**AND TO:                    RENQE FY INCORPORATED                    SERVICE BY EMAIL**  
**Attorney for the Second & Third**  
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**C/O MADLOPA INC**  
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**AND TO:                    STATE ATTORNEY, JOHANNESBURG                    SERVICE BY EMAIL**  
**Attorney for Third & Fourth**  
**Respondents: Minister of Finance and**  
**National Treasury**  
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Email: vdhulam@justice.gov.za  
Attention: Rebecca Tee  
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**AND TO:**

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**AND TO:**

**GILDENHUYS MALATJI**

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**Attorneys for Sixth Respondent:**

**Information Regulator**

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Email: tmalatji@gminc.co.za

Attention: Mmamoroke Mphelo

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Fax: 086 500 3351

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**AND TO:**

**SHEPSTONE & WYLIE ATTORNEYS**

**SERVICE BY EMAIL**

**Attorneys for the Seventh Respondent:**

**South African Post Office**



**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

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**SOUTH AFRICAN SOCIAL SECURITY AGENCY** Applicant

**CHIEF EXECUTIVE OFFICER, SOUTH AFRICA SOCIAL SECURITY AGENCY** Second Applicant

and

**MINISTER OF SOCIAL DEVELOPMENT** First Respondent

**BLACK SASH TRUST** Second Respondent

**MINISTER OF FINANCE** Third Respondent

**NATIONAL TREASURY** Fourth Respondent

**CASH PAYMASTER SERVICES (PTY) LIMITED** Fifth Respondent

**INFORMATION REGULATOR** Sixth Respondent

**SOUTH AFRICAN POST OFFICE SOC LTD** Seventh Respondent

**FREEDOM UNDER LAW NPC** Eighth Respondent

and

**CORRUPTION WATCH (NPC) RF** First Amicus Curiae

**SOUTH AFRICAN POST OFFICE SOC LTD** Second Amicus Curiae

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**FIRST RESPONDENT'S AFFIDAVIT IN TERMS OF COURT ORDER DATED 23**

**MARCH 2018**

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*SP*

*Jr*

I, the undersigned,

**SUSAN SHABANGU**

do hereby make oath and state:

1. I am the Minister of the Department of Social Development, the First Respondent in this matter ("**the Minister**").
2. The facts contained herein are within my personal knowledge, save where the contrary appears from the context, and are to the best of my knowledge and belief both true and correct.
3. Where I make legal submissions, I do so, on the advice of my legal representatives, which was obtained during the preparation of this affidavit.

#### **THE PURPOSE OF THIS AFFIDAVIT**

4. This affidavit is filed in compliance with this Court's order dated 23 March 2018 ("**the Court Order**"), in terms of which obligations were imposed on me, as Minister, to file reports on the implementation of the Court order on a monthly basis and to report to the Court any material change in respect of any matter contained in the monthly reports.
5. On 30 April 2018, I filed my report in accordance with paragraph 5 of the Court Order ("**April Report**") and this affidavit is submitted as an update to the Court in respect of the actions that I have taken subsequent to the filing of the April Report.


## **CANCELLATION OF THE CASH PAYMENT TENDER**

6. I am aware of the decision contained in the supplementary report filed by the Acting Chief Executive Officer of SASSA on 15 May 2018, *inter alia* stating that he has resolved to cancel the bid bearing number 15/17/SP/HO for the Provision of Cash Payment Services for Social Assistance ("**the Tender**").

## **THE APPOINTMENT OF A TECHNICAL COMMITTEE**



7. In light of the cancellation of the Tender and in order to ensure compliance with the Court's order in relation to the payment of social grants to beneficiaries, I have decided to establish a Technical Committee ("**Technical Committee**") in accordance with regulation 20 of the Treasury Regulations published in terms of the Public Finance Management Act 1 of 1999 ("**PFMA**").

### ***Purpose of the Technical Committee***

8. The purpose of the Technical Committee is *inter alia* to explore and recommend to the Minister alternatives to the cash payment of social grants; as well as to advise on matters relating to the transition from Cash Paymaster Services ("**CPS**") and the appropriate governance dispensation of SASSA, with the ultimate purpose of ensuring that the orders of the Court are fully complied with.

### ***Rationale for the services of a Technical Committee***

9. SASSA has, over the last few years, been working on a plan to gear itself to take over the payment of social grants from CPS. Various projects aimed at developing a payment model and related system were undertaken by the

  
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Council for Scientific and Industrial Research (CSIR), Ministerial Advisory Committee (MAC) and subsequently, the work streams. A number of payment models were developed by the aforementioned entities, but were neither fully examined nor implemented, and the work completed did not culminate in SASSA taking full responsibility over the payment of social grants.

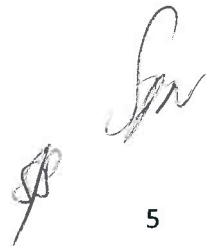
10. A need therefore exists for a Technical Committee to be established to *inter alia* consolidate, analyse and evaluate all the reports produced by the different entities and to make recommendations on the basis of the immediate, medium and long-term strategic outlook and the overall impact this will have SASSA. The Technical Committee will also assist SASSA with the implementation of alternatives to the cash payment services.
11. The Technical Committee will be operational for a period of 12 (twelve) months and it will work together with SASSA management in the implementation of a plan that will improve efficiencies in the payment of social grants in compliance with the orders of the Court.

***Members of the technical committee***

12. The Technical Committee will comprise professionals with previous experience and knowledge in the following fields:
  - 12.1. Social grants policy and implementation;
  - 12.2. The South African payment landscape including National Payment System and related Banking regulations;
  - 12.3. Supply Chain Management and/or contracting issues;



- 12.4. The public sector institutional landscape in South Africa in general and the South African government systems in particular;
  - 12.5. The PFMA and Treasury Regulations;
  - 12.6. The Public Service procurement procedures;
  - 12.7. Auditing and Accounting; and
  - 12.8. Enterprise Programme and Project Management.
13. The Technical Committee will be comprised of the following individuals:
- 13.1. Ms Dipuo Peters: Former Minister of Transport and former Premier of the Northern Cape Provincial Government. Ms. Peters has vast experience in governance acquired through her service as a Premier and a Minister.
  - 13.2. Mr Vusi Madonsela: Current Director-General of the Department of Justice and Constitutional Development and former Director-General of the Department of Social Development.
  - 13.3. Ms Totsie Memela: Former Managing Director of Post Bank and Executive Officer of Women's Development Bank Trust. She has experience in the payment of social grants by the South African Post Office.
  - 13.4. Mr Selwyn Jehoma: Former Deputy Director-General of the Department of Social Development. He was part of the team that established SASSA.
  - 13.5. Mr Siphon Shezi: Former Special Adviser to the former Minister of Social Development.

Handwritten signatures in black ink, appearing to be initials or names, located in the bottom right corner of the page.

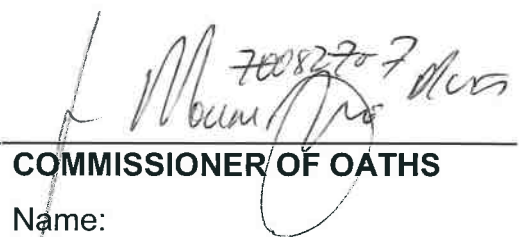
## CONCLUSION

14. An update on the establishment of the Technical Committee will be included in my report that is due at the end of May 2018.
15. I am mindful of the 30 September 2018 deadline and I have every intention to ensure compliance thereof. I further remain committed to ensuring that SASSA realises its objective to ensure the uninterrupted payment of social grants to social grant beneficiaries.



**SUSAN SHABANGU**

I CERTIFY that this affidavit was signed and sworn to before me at Pretoria on this the 18 day of MAY 2018, by the deponent who acknowledged that he knew and understood the contents of this affidavit, had no objection to taking this oath, considered this oath to be binding on his conscience and who uttered the following words: "I swear that the contents of this affidavit are true, so help me God".



**COMMISSIONER OF OATHS**

Name:

Address:

Capacity:

