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# AFFIDAVIT

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I, the undersigned,

**BENJAMIN [REDACTED] THERON**

do hereby make oath and state:

1.

I am an adult male employed as Chief Operating Officer by the Organisation Undoing Tax Abuse (OUTA) with business address 10<sup>th</sup> Floor, O'Keeffe & Swartz Building, 318 Oak Street, Ferndale, Randburg, Gauteng.

2.

The contents of this affidavit fall within my personal knowledge, unless stated otherwise and are in all aspects true and correct.

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**MANDATE**

3.

The Organisation Undoing Tax Abuse ("OUTA") is a proudly South African non-profit civil action organisation, comprising of and supported by people who are passionate about improving the prosperity of our nation. OUTA was established to challenge the abuse of authority with regards to taxpayers' money in South Africa.

4.

In recent months, headlines have been dominated by the leaked Gupta emails and documents ("Gupta emails") which were retrieved from the server of SAHARA Computers Pty (Ltd). These Gupta emails have substantiated most of the allegations pertaining to state capture and have unveiled evidence of misconduct by the Gupta family and many high-ranking government officials. OUTA has access to the emails and established the authenticity of such and released an extensive report on state capture on the 28<sup>th</sup> of June 2017 titled "No room to hide: A President caught in the act."

5.

Amongst these are emails and documents which are evidence of conduct that constitutes crimes of Extortion, Fraud, Theft, Corruption and High Treason on the part of Mosebenzi Joseph Zwane ("Zwane"), who is the Minister of Mineral Resources of the Republic of

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South Africa. This misconduct occurred during Zwane's tenure as Minister of Mineral Resources as well as his tenure as MEC for Agriculture and Rural Development in the Free State province.

### **BACKGROUND**

6.

President Jacob Zuma appointed Zwane to Cabinet as Minister of Mineral Resources on 22 September 2015. In the Cabinet reshuffle on 30 March 2017, President Zuma retained Zwane as Minister of Mineral Resources.

7.

President Zuma's appointment and retention of Zwane as Minister of Mineral Resources evidences his use of presidential powers to promote and protect the interests of the Guptas and their business associates, including the President's son, Duduzane Zuma. It also evidences the unlawful use of the President's appointment powers for improper purposes, and is a strong indication that an improper relationship exists between President Zuma and the Gupta family.

8.

The facts disclosed in official investigations, media investigations and the documents from Sahara's computer server indicate that:

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- a. Zwane was appointed as Minister of Mineral Resources by President Zuma after first being vetted by members of the Gupta family, and without the prior knowledge of the ANC National Executive Committee.
- b. Prior to his appointment, in June 2012, as MEC for Agriculture and Rural Development in the Free State Province, Zwane promoted the establishment of a "mega" Vrede dairy project with Estina (Pty) Ltd, which has cost the province at least R183.95 million. The Guptas were intimately involved in the project and were beneficiaries of it.
- c. Shortly after the launch of the Vrede dairy project, in October 2012, Zwane (and his local gospel choir) were gifted by the Guptas with an all-expenses paid trip to India.
- d. In March 2013, as MEC for Agriculture and Rural Development in the Free State, Zwane furnished invitees for the Gupta Sun City wedding with an official invitation from the MEC's office, which facilitated the landing of an aircraft with wedding guests at the Waterkloof Air Force Base.
- e. Prior to his appointment to Cabinet, Zwane attended numerous meetings with Tony Gupta. Zwane was also flown to, and accommodated at, the luxury Oberoi Hotel in Dubai, in the company and at the expense of the Guptas on at least two further

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occasions in 2013. Zwane has attended Gupta family weddings in South Africa and India, at the Guptas' invitation and expense.

- f. As Minister of Mineral Resources, Zwane utilised his public office to facilitate the sale of Optimum Coal Holdings Pty (Ltd) ("OCH")' assets from Glencore to Tegeta Exploration & Resources (Pty) Ltd ("Tegeta"), a company that is owned by the Guptas, their close business associate Salim Essa, and Duduzane Zuma. Between the 30<sup>th</sup> of November 2015 and the 5<sup>th</sup> of December 2015, Zwane flew to Switzerland to meet with Glencore's CEO, in the company of Atul Gupta, Ajay Gupta and Essa, to influence Glencore into selling its OCH's assets to Tegeta. This sale on the 10<sup>th</sup> of December 2015 was followed shortly by the conclusion of coal-supply contracts between Tegeta and Eskom at escalated prices. The Public Protector concluded that the contracts appeared to benefit only the shareholders of Tegeta.
- h. Zwane's Department of Mineral Resources also authorised the release of Koorfontein mine's R280 million rehabilitation trust fund and Optimum Coal mine's R1,469,916,933.63 billion rehabilitation trust fund into Bank of Baroda accounts, without ensuring that these funds were properly ring-fenced and secure and would be utilised for their proper purpose. The fate of these funds is unknown.
- i. As Minister of Mineral Resources, Zwane has appointed known Gupta associates as his special and personal advisors, namely Kuben Moodley and Malcolm Mabaso.

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- j. As Minister of Mineral Resources, Zwane has been instructed in his public and media statements by Gupta family members and known Gupta associates, including Tony Gupta, former Oakbay CEO, Nazeem Howa, Duduzane Zuma and the Gupta-hired PR firm, Bell Pottinger.
- k. On 13 April 2016, President Zuma appointed Zwane to chair an inter-ministerial committee to investigate the closure of the Guptas' South African bank accounts. Nedbank accused Zwane of abusing this position by trying to influence them to keep their Gupta-held accounts open.
- m. Despite the fact that Zwane had publicly misrepresented what Cabinet had decided, he has been retained in the Cabinet by President Zuma and remains responsible for the Mineral Resources portfolio that is of obvious importance to the Gupta family.

9.

In the light of these facts, the following conclusions can be drawn with confidence:

- a. Zwane has an improper relationship with the Gupta family, and has abused his public office to enrich the Gupta family and their business associates, including President Zuma's son, Duduzane Zuma.
- b. President Zuma has abused his powers of appointment in appointing and retaining Zwane as Minister of Mineral Resources, to promote and protect the interests of

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the Gupta family and their business associates, including the President's son, Duduzane Zuma.

- c. An improper relationship exists between Zwane and the Gupta family.

### THE GUPTA EMAILS

#### **The appointment of Zwane as Minister of Mineral Resources**

10.

On 22 September 2015, President Zuma announced the appointment of Zwane as Minister of Mineral Resources. Zwane was sworn in the following afternoon, on 23 September 2015.

11.

Zwane was appointed a Minister less than a month after being sworn in as a member of the National Assembly (on 2 September 2015). Zwane had no experience in mining or in national government and was not a member of the ANC's national executive committee. He had previously served as MEC for Agriculture and Rural Development (2014 – 2015) and MEC for Economic Development, Tourism and Environmental Affairs (2009 – 2013) in the Free State province, under Premier Ace Magashule. His academic qualifications are a secondary teacher's diploma from the South African Teachers' College in Pretoria

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and a certificate in Executive Leadership Municipal Development Programme from the University of Pretoria.

## 12.

President Zuma announced Zwane's appointment to the surprise of the ANC National Executive Committee, which had met the previous weekend and had not been advised of the impending appointment.

## 13.

Zwane's appointment appears to have been vetted, if not orchestrated, by the Guptas, using Duduzane Zuma as a conduit to President Zuma.

- a. On 1 August 2015, less than two months before President Zuma appointed Zwane as Minister, France Oupa Mokoena of Koena Consulting and Property Developers emailed Rajesh (Tony) Gupta to say "*Please find attached the CV of Mosebenzi for your attention*". Tony Gupta forwarded Mokoena's email, with its attachment, directly to Duduzane Zuma. The emails are attached hereto and marked as annexure **MJZ 1** and **MJZ 2**.
- b. On 20 September 2015, a presidential-level motorcade was reported to have paid a visit to the Gupta family compound in Saxonwold.

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14.

In May 2017, former Mineral Resources Minister Ngoako Ramatlhodi publicly stated that he was removed as minister and replaced by Zwane after he resisted pressure from Eskom's CEO, Brian Molefe and Eskom's chairperson, Ben Ngubane, to suspend Glencore's mining licences. At the time that Ben Ngubane pressurised Minister Ramatlhodi to suspend the Glencore mining licences, Glencore was then the owner of OCH's assets, which were subsequently purchased (with the assistance of the new Minister, Zwane) by the Gupta-Zuma owned company, Tegeta. The Optimum Coal mine became the subject of lucrative coal-supply deals that Tegeta proceeded to conclude with Eskom on terms considerably more favourable to Tegeta than those to which Glencore had been subject prior to the purchase, and which, for no apparent reason, obliged Eskom to purchase the coal from Tegeta at a price of 19.69/GJ as opposed to the price of R18.68/GJ which was the Optimum Coal mine price to Tegeta and the price for which Eskom could have contracted directly with the Optimum Coal mine.

15.

Minister Ramatlhodi's account of the circumstances surrounding his removal is published in an article by amaBhungane, 'How Brian Molefe 'helped' Gupta Optimum heist', dated 16 May 2017, attached hereto and marked as annexure **MJZ 3**. It reads in relevant parts:

*"Former Mining Minister Ngoako Ramatlhodi has made damning new allegations that Eskom chief executive Brian Molefe and chair Ben Ngubane effectively pressed him to blackmail resources giant Glencore.*

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*When he did not comply, he says, President Jacob Zuma fired him within weeks. At the time the Gupta family were angling to buy Optimum, the coal mine that supplies Eskom's Hendrina power station.*

*Glencore, which then owned Optimum, had placed it into business rescue in August after Molefe refused to renegotiate the price of a long-term supply contract and reinstated a disputed R2.17-billion penalty that Optimum supposedly owed for supplying substandard coal.*

*Speaking from Limpopo on Friday, Ramatlhodi, then minister of mineral resources, said he met with Molefe and Ngubane at the latter's insistence. At the meeting, they allegedly demanded that he suspend all Glencore's mining licenses in South Africa, pending the payment of the R2.17-billion penalty.*

*Eskom had tried to issue a legal summons for the penalty on 5 August 2015, but Optimum's business rescue practitioners, appointed only the day before, batted away the claim, citing legislation which restricts new claims once a company is in business rescue.*

*Glencore maintained the Hendrina contract but was losing it R100-million a month and it could no longer support the losses. Business rescue, an alternative to liquidation, puts independent managers in charge in an attempt to save a company.*

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*Ramatlhodi told amaBhungane: "They insisted that I must suspend all the Glencore mining licenses pending the payment of the R2-billion... You must remember that the country was undergoing load-shedding at that time. I said to them: how many mines do these people have supplying Eskom? How many more outages are we going to have?"*

*A suspension of all of Glencore's licenses would have brought Glencore's 14 coal operations to a standstill and risked the jobs of its 35 000 employees in South Africa. At the time Glencore supplied roughly 14% of Eskom's coal needs, including virtually all of the coal for the Hendrina power station.*

*Ramatlhodi said Ngubane was very insistent, but he refused: "I said I'm not going to shut the mines."*

*He said Ngubane then told him that he would have to report on their meeting to President Jacob Zuma straightaway as the president needed to be in the know before leaving on a foreign trip.*

*On 2 September 2015, Zuma arrived in China for a commemoration of victory over the Nazis in World War II. There he was due to meet Russian President Vladimir Putin.*

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*Ramatlhodi said he was removed as mines minister shortly after Zuma's return. Zuma announced unexpectedly on 22 September that year that Mosebenzi Zwane, a Free State politician linked to the Guptas, would replace Ramatlhodi.*

*Zuma moved Ramatlhodi to public service and administration at the time, but fired him along with finance minister Pravin Gordhan and other members of his cabinet earlier this year."*

#### **Zwane's involvement in the Estina dairy project**

16.

In and about mid-2011 to mid-2012, Zwane (as MEC for Agriculture and Rural Development in the Free State province) and Free State Premier, Ace Magashule, drove the conclusion of a mega-contract between the Department and Estina (Pty) Ltd for the "Vrede dairy project".

17.

Under the Vrede dairy project, MEC Zwane's Department of Agriculture awarded a Gupta-linked company, Estina (Pty) Ltd, a 99-year, rent-free lease on the 4400-hectare Krynaauwslust farm near Vrede (Zwane's home district). The Department also undertook to commit R114 million a year, for three years (R342 million in total) to set up the farming

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operation and dairy on the property. No tender processes were followed and no due diligence of Estina was conducted before the Department contracted with Estina.

## 18.

The project was mired in controversy. Investigative journalists, amaBhungane, reported that the company that was awarded the contract, Estina, had no apparent capacity to manage and implement the project. Estina's sole director was Kamal Vasram, who worked in information technology (as a retail sales manager for Toshiba's South African subsidiary) and had no farming background. In its proposal, Estina claimed that an Indian company, Paras Dairy, was jointly involved in the project and would provide expertise. This claim was refuted by Paras Dairy, which claimed that it had no knowledge of the project.

## 19.

During or about October 2013, National Treasury investigated the Department's contracts with Estina. The results of this investigation were not published by Treasury, but some of the findings were disclosed by AmaBhungane after it obtained a transcript of an interview that the investigators had conducted with the Department's Chief Financial Officer, Seipati Dlamini. (Notably, as Minister of Mineral Resources, Zwane appointed Dlamini as national Deputy Director-General: Mineral Regulation in November 2016, without following due process and without Cabinet approval).

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20.

AmaBhungane reported, the full report attached hereto and marked **MJZ 4**, in February 2014 that:

*"[A] document obtained by amaBhungane shows that in October last year a forensic team was dispatched by the treasury to Bloemfontein to question officials about the bizarre contract to develop a large dairy and milk processing plant in the northeastern Free State town of Vrede. Investigators were shocked by what they heard, including:*

- a) The Free State agriculture department did not follow any supply-chain procedures when agreeing to fund the project through Estina, a private company;*
- b) The department did no due diligence on Estina or its claimed partnership with Paras, a major dairy company in India. Paras subsequently denied any involvement;*
- c) The Free State paid grants directly into Estina's bank account and the responsible official admitted she had no real evidence of how the money was being spent;*
- d) A "feasibility study" was done only after the contract was signed; It appears the "loosely drafted" contract – skewed in Estina's favour – was drawn up by Premier Ace Magashule's legal adviser. The contract commits the department to shelling*

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out R342-million and Estina will be billed for the balance of the R570-million project cost "if necessary";

- e) *Small-scale farmers, who were supposed to be beneficiaries of a 51% share in the scheme, were only identified recently and the official could not explain how they were chosen; and*
- f) *Approval for the project was rushed through despite the fact there was no budget, no feasibility study and no urgency.*

*One of the investigators remarked in apparent exasperation: "Estina is using government's money to establish a plant, putting cows on land that is given by government rent-free. Now they get to make a fortune off the infrastructure."*

*The disclosures are made in a confidential transcript, which records an extraordinary interview (<http://cdn.mg.co.za/content/documents/2014/02/06/ensinterviewdlamini.pdf>)<sup>1</sup> with the Free State department of agriculture chief financial officer, Dipatle Dlamini."*

21.

On 13 August 2014, following the National Treasury's investigation, the Department cancelled its contract with Estina (Pty) Ltd. Management of the project was taken over by

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<sup>1</sup> As at 14 June 2017, the transcript is still available online at the published address.

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the Free State Development Corporation (FDC). The FDC indicated that the cow housing shed was inadequate, and that the processing plant that was built by Estina would require additional investment, if it was viable at all. The FDC also reportedly admitted (in a meeting of the Portfolio Committee for Economic Development in the Free State Legislature) that none of the 80 beneficiaries purportedly identified for the project are currently involved in it.

## 22.

As disclosed in the MEC's replies to parliamentary questions, by 28 April 2015, the Free State Department of Agriculture had invested R183,950,000.00 (R183.95 million) in the Vrede Dairy Project. See the annexure attached hereto and marked **MJZ 5**.

## 23.

The provincial government, Estina, the Gupta family and Vasram all denied any Gupta-involvement in the project, save for the conclusion of a consulting subcontract of R138,000 between Estina and a Gupta-owned company, Linkway Trading. However, emails from the Sahara computer server evidence that the Guptas were intimately involved in the project. They evidence further that the Guptas have been the beneficiaries of tens of millions of rands that the provincial government paid to Estina, through payments made by Estina to an offshore Gupta-front company called Gateway Ltd (registered in the United Arab Emirates).

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## 24.

The evidence of the Gupta family and associates' involvement in the scheme, and how they extracted public funds from it, is detailed in an amaBhungane/ Scorpio exposé of 5 June 2017. The expose is attached hereto and marked **MJZ 6**. The report explains:

*“By the time Estina was kicked off the project in 2014 following a national Treasury probe and amaBhungane’s exposure of dead cows being dumped in a ditch, the provincial government had paid Estina about R184-million in taxpayers’ money.*

*The #GuptaLeaks open a window on what happened to a large chunk of that money, supporting the impression that the Guptas not only controlled Estina, but were the primary beneficiaries.*

*Zwane’s successor as agriculture MEC, Mamiki Qabathe, answered questions in the provincial legislature in November 2013, saying that by then a total of R114-million – tranche R30-million and R84-million – had been transferred to Estina.*

*Spreadsheets in the #GuptaLeaks show a total of \$8.35-million – equal to the R84-million second tranche at the exchange rate then – hitting the account of a company called Gateway Ltd in August and September 2013.*

*Gateway is registered in Ras al-Khaima, one of seven emirates making up the UAE and a highly secretive offshore company jurisdiction. Gateway appears to be little more than a Gupta front; it is among a number of UAE companies administered by a man who, the #GuptaLeaks show, is a Gupta subordinate.*

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*Part of the R84-million appears to have gone to an engineering firm in Saharanpur, the Guptas' home town in India. It went like this: Star Engineering, based in Saharanpur, sent a letter to Ajay Gupta in 2012, thanking him for meeting and "taking interest in our line of production of super quality dairy equipment".*

*In September 2013, Gateway, the Gupta UAE company, invoiced Estina for a milk pasteurising plant at US\$3.45-million (about R34-million then). A little over a week later a similar amount from Estina hit Gateway's account.*

*Further correspondence shows that Gateway ordered the plant from Star Engineering in Saharanpur. A representative from the firm asked for questions to be emailed, but had not replied by the time of publication.*

*And so, it appears that of the R84-million remitted to the UAE, R34-million was for actual dairy equipment – although how much was paid to Star Engineering and how much Gateway kept as a mark-up remains to be seen.*

*What happened to the remaining R50-million Estina remitted to Gateway is not clear.*

*Although there was some construction at the farm and some cows were bought, the full use of the remaining R100-million from the total R184-million that the province paid Estina also remains unclear. On visits to Vrede at the time, amaBhungane did not encounter development suggested by that level of expenditure."*

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25.

There is compelling evidence to support these allegations, which have not been meaningfully disputed. The repeated denials by the Guptas, Vasram and the Department over the Guptas association with the project have also never been explained.

26.

The evidence obtained from the Sahara computer server includes the following documents, attached hereto and marked as **MJZ 7 to MJZ 16**:

- a. Emails exchanged between the Gupta brothers and senior Gupta employees on the recruitment of Estina staff from India; obtaining work permits for Estina employees; and approving their contract salaries.
- b. Emails exchanged between Ravindra Nath and B. Rajendra CEO of The Bank of India: Johannesburg that indicate that Gupta group and personnel applied for a bank loan for Estina.
- c. Spreadsheets on the Sahara computer indicate that Sahara hosted Estina's accounting software, and oversaw the flow of monies in and out of its account.
- d. Invoices from Gateway to Estina dated 15 September 2013.

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27.

The mere fact that these documents were found on the Sahara Computer is clear indication of involvement of the Guptas in Estina.

28.

The AmaBhungane/Scorpio report cites further evidence of the Guptas' involvement in the scheme, through their companies' association with Vasram (the sole director of Estina). The report notes that:

*"During the Estina saga, there were ongoing large orders from the Guptas' Sahara Computers for IT equipment from Toshiba, represented by Vasram. E-mails also listed apparent transfers totaling millions of rand from Gupta companies to Vasram.*

*Separately Vasram, using his Estina e-mail address, invoiced Gupta company Linkway Trading monthly for "services rendered". Linkway is the company the Guptas acknowledge had done "consulting" on the dairy project in its early stages.*

*Vasram's invoices, initially at R11,000 a month, started in May 2011, when Estina was negotiating the project with Zwane's Free State agriculture department, and continued until least August 2012.*

*In early 2013 there were two more invoices from Vasram to Linkway, for amounts of around R50,000 each.*

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*These invoices suggest that the Gupta consulting company paid Vasram fees for the Estina work – again upending his and the Guptas' insistence that Estina was his business a theirs.”*

29.

The invoices from Vasram to Gupta companies (dated May 2011 to August 2012 and early 2013), are attached hereto and marked **MJZ 17A** to **MJZ 17I**.

30.

Of particular concern, is the evidence of a “kickback” from the Guptas to Zwane and other officials in the Department, for facilitating the Estina scheme. In October 2012, shortly after the launch of the Estina project, Zwane, officials from his department and a local gospel choir (the Umsingizane gospel choir) that Zwane promotes were hosted on an all-expenses paid tour of India by the Guptas.

31.

Details of this trip are evidenced in emails and records from the Sahara computer server, attached hereto and marked as **MJZ 18** to **MJZ 20**. These include:

- a. The flight and accommodation bookings for 24 or more travellers, including Zwane, at Oberoi hotels in different parts of India;

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- b. An email from Zwane ("M Zwane <zwanemail@gmail.com>"), in which he personally sends a list detailing which members of the party should share rooms and who should get their own; and,
- c. The tour programme which included visits to the Taj Mahal and the "Kingdom of Dreams", as well as "Gupta house for dinner".

### **Zwane's close association with the Guptas**

32.

Following his trip to India in October 2012, Zwane enjoyed subsequent trips to India and Dubai, which were arranged and paid for by the Gupta family. These include:

- a. A trip to India in December 2013, to attend a wedding with Ashok Narayan (an executive of the Gupta company, Sahara Systems), members of the Gupta family and Chandrama Prasad ("CP") Yadav, the farm-manager of the Vrede dairy project.
- b. A trip to Dubai and Delhi in September 2014, which Gupta employees (at Sahara) arranged, and which the Gupta family paid for. The flight tickets are evidence that Zwane flew to Dubai, and then Delhi, in the company of Rajesh (Tony) Gupta and Salim Essa and Suraya Singhala. The purpose of this trip is unknown.

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33.

The emails records from the Sahara computer server, which evidence these trips and the Gupta family's payment of Zwane's expenses (upfront or by refund), are attached hereto and marked **MJZ 21** and **MJZ 22**.

34.

The Sahara computer server indicates that numerous meetings were scheduled between Zwane, Tony Gupta and a certain Peter at Sahara and a place designated as "No. 5". Electronic meeting invitations and acceptances, attached hereto and marked **MJZ 23** to **MJZ 27, record** that the following meetings were held between Zwane and Tony Gupta:

- a. on 31 January 2013, at 11 am between Zwane and Tony Gupta at No. 5;
- b. on 1 February 2013, at 4pm, between Zwane, DG and Tony Gupta at No. 5;
- c. on 15 March 2013, at 4pm between Zwane and Tony Gupta at No. 5;
- d. on 6 April 2013, at 5pm between Zwane and Tony Gupta at No. 5; and
- e. on 27 August 2013, at 1pm, between Zwane, Tony Gupta and Peter at Sahara.

35.

On 30 April to 2 May 2013, Zwane attended the Gupta family wedding (of Vega Gupta and Aakash Jahajgarhia) at Sun City, where he stayed for three nights. The confirmation of Zwane's attendance and stay is attached hereto and marked **MJZ 28**.

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36.

Further, on 22 July 2013, Ashok Narayan requested Sahara's CEO, Ashu Chawla, to use the Gupta's helicopter to fly from Grand Central to Harrismith, with Zwane and Duduzane Zuma named as two of the passengers. The email is attached hereto and marked **MJZ 29**.

37.

This history evidences that Zwane has a close association to the Gupta family and their associates – in particular, Tony Gupta and Ashok Narayan. Zwane met with Tony Gupta regularly throughout 2013 (when the Estina project was underway) and they continued to meet in 2014. Zwane travelled with the Guptas – using their aircraft and at their expense. Between October 2012 and September 2014, Zwane travelled to Dubai and India on at least three occasions, at the Gupta's expense. Zwane also attended Gupta family weddings in South Africa and India, at their invitation and expense.

**Zwane used his position as MEC to facilitate the landing of the Guptas' wedding guests at the Waterkloof Air Force Base**

38.

Zwane is implicated in the Gupta's use of the Waterkloof Air Force Base for landing wedding guests from India on 30 April 2013. In March 2013, an official letter signed and sent on behalf of Zwane (as MEC for Agriculture and Rural Development in the Free State) extended an open invitation to Shivpal Yadav, a minister in the Indian state of Uttar Pradesh, to visit the province. The letter of invitation was copied to the Indian High

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Commissioner to South Africa, Virendra Gupta. This invitation helped secure the aircraft of wedding guests landing access at the Waterkloof Air Force Base. Yadav was one of about 200 guests from India who attended the wedding after arriving in the Jet Airways Airbus at the Waterkloof Air Force Base.

39.

The flight for the Gupta wedding, a private civilian affair, was cleared to land at Waterkloof by the South African National Defence Force. Permission was granted on application from the Indian High Commission, on the basis that the Airbus 330 was a "VIP" flight carrying a delegation from India.

40.

The timing of Zwane's letter of invitation is suggestive of an ulterior and improper purpose. In February 2013, the Minister of Defence, Nosiviwe Mapisa-Nqakula, had refused a request by a Gupta family envoy – a representative of the Gupta family's Sahara company – for approval to land at the Waterkloof Air Force Base. The Indian High Commissioner to South Africa, Virendra Gupta, then became instrumental in securing permission for the use of Waterkloof. On the strength of the open letter of invitation to an official "delegation" from Zwane, the Indian High Commission obtained clearance for the landing from then-chief of state protocol, Vusi Bruce Koloane ("Loloane"). This timing, together with the fact that the Free State government's official meeting was not publicised at all, is (at the very least), suggestive of an abuse of powers on the part of Zwane as MEC.

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41.

A chain of emails from the Sahara computer server evidences that the letter of invitation was, in fact, prepared by Ashok Narayan and forwarded to Ashu Chawla. Chawla then forwarded the letter to Zwane to be copied on an official letterhead. The emails are attached hereto and marked **MJZ 30** to **MJZ 32**.

42.

Koloane was suspended as chief of state protocol by the Department of International Relations and Cooperation in the wake of the Waterkloof affair and it emerged that he had persuaded other government officials to make the Waterkloof Air Force Base available for the Gupta landing by saying that he "was under pressure from Number 1 [i.e. President Zuma]" to do so.

43.

The Guptas and President Zuma have never acknowledged that any improper pressure was put on Koloane (or any other person) to make the Waterkloof Air Force Base available for the Gupta wedding. If that were the case, one would have expected them both to have viewed the conduct of Koloane in a dim light, and to have had no further contact with him. However, they have both continued to extend patronage to Koloane in a manner inconsistent with their version that they had nothing to do with his unlawful acts in relation to the Waterkloof fiasco:

- a. President Zuma appointed Koloane as Ambassador to the Netherlands in August 2014.

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- b. Koloane has retained strong ties to the Guptas, including facilitating new business relations in the Netherlands. These continued ties are detailed in an *amaBhungane/ Scorpio* exposé published on 11 June 2017. The article attached hereto and marked **MJZ 33**.
- c. Further emails evidence how Koloane approached the Guptas in 2016 to sponsor a golf tournament he was hosting in Pietermaritzburg in December 2016 to mark his 20th wedding anniversary. Koloane made the request in an email addressed to Sahara's CEO, Ashu Chawla, who forwarded the request to Tony Gupta. The response from Tony Gupta is revealing: "*Support whatever he wants.*" The emails are attached hereto and marked **MJZ 34**.

**Zwane has used in his position as Minister to benefit the Guptas and Duduzane Zuma**

44.

As Minister of Mineral Resources, Zwane used his public office to facilitate the sale of OCH's assets from Glencore (Pty) Ltd to Tegeta, a subsidiary of the Gupta-family holding company, Oakbay Investments (Pty) Ltd (with a 29.05% shareholding) and in which Duduzane Zuma's Mabengela Investments (Pty) Ltd held a 28.53% shareholding.

45.

Following its purchase of Optimum Coal Mine, Tegeta secured lucrative coal supply contracts with Eskom from Optimum Coal Mine. These include a R564 million contract

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awarded in April 2016 to supply Arnot power station with 1.2 million tons of coal over six months (excluding the transport costs also payable by Eskom). The City Press reported in June 2016 as follows:

*“At R470 a ton, Tegeta’s Arnot contract is one of Eskom’s most expensive. In May, last year, Public Enterprises Minister Lynne Brown told Parliament that Eskom paid an average price of R230.90 a ton for coal, and that the average price of Eskom’s five most expensive contracts was a “delivered price” of R428.84 a ton.*

*... City Press has established that, with transport, Tegeta is paid roughly R580 a ton, pushing the total value of the six-month contract up to just under R700 million.”*

46.

Tegeta also inherited an estimated R1.5 billion rehabilitation trust fund, set aside under the Mineral and Petroleum Resources Development Act and the National Environmental Management Act to finance the rehabilitation of the OCH's mines upon its closure.

47.

Investigative journalists at *AmaBhungane* and *Scorpio* calculate that, altogether:

*“[T]he Guptas have received contracts worth R11.7-billion from Eskom for coal alone. None of these contracts was awarded as the outcome of a competitive bidding process, and the R11.7-billion does not include the contracts that Tegeta inherited when it bought*

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*Optimum Coal, nor does it include invoices totalling R419-million for management consulting and advisory services delivered to Eskom by Trillian Capital Partners, a company majority owned by Salim Essa.*” The article is and marked as **MJZ 35**.

48.

In the “*State of Capture*” report, the Public Protector analysed Zwane’s flight records to confirm that Zwane flew from Johannesburg to Zurich, via Dubai, on 29 and 30 November 2015. The Public Protector reports that she received information “*from an independent source*” that “*Zwane did in fact meet with Mr Glazenberg in Switzerland at the Dolder Hotel around 30 November 2015 to 5 December 2015, and that the other individuals present during said meeting(s) [were] Mr Rajesh (Tony) Gupta and Mr Essa*”.

49.

The Public Protector was unable to explain how Zwane got from Zurich to Dubai, since his official flights (booked on Emirates Airlines (i) from Zurich to Dubai on 2 December 2015; (ii) from Dubai to Delhi on 3 December 2015; and (iii) from Delhi to Dubai on 5 December 2015) were never used. However, Zwane did catch his official flight booked from Dubai to Johannesburg on 7 December 2015.

50.

The flight and accommodation bookings extracted from the Sahara computer server confirm that, on 2 December 2015, when Zwane failed to board his official flight from Zurich to Dubai, he was on board the Guptas’ private Bombardier jet, ZS-OAK, along with

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Tony Gupta and Salim Essa. Further, the records evidence that Zwane spent the next two days in India with the Guptas before flying back to Dubai and catching his official flight back to Johannesburg. Whilst in Dubai, Zwane was booked into the five-star Oberoi hotel paid for by the Guptas' company, Sahara Computers, and was chauffeured around in a BMW 7 Series motor vehicle, at the expense of Sahara Computers. The invoice is attached hereto and marked as **MJZ 36**.

## 51.

In the context of the Optimum Coal dispute, when Eskom as an organ of state had to decide whether to terminate its contract with Glencore or not, and if so, how to procure the coal that it had previously obtained from Glencore, it would plainly have been improper for Zwane to travel with and at the expense of the Tegeta delegation that was hoping to obtain the Eskom contract after forcing Glencore to sell the Optimum mine. Zwane, the Guptas and former Oakbay Investment's CEO, Nazeem Howa, have thus persistently lied to the public by denying that this took place. These denials include repeated lies by Zwane to Parliament:

- a. In a written reply to a parliamentary question from Democratic Alliance MP, Tim Brauteseth on 8 April 2016, Zwane denied ever meeting with any of the Guptas, Gupta employees or close associates since taking office as Minister of Mineral Resources. The answer furnished was: *"The Minister has not met with any member, nor close associate of the Guptas. He has also not attended a meeting with a specified person at the Gupta's Saxonwold Estate in Johannesburg."*

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- b. In a written reply to parliamentary questions from the EFF leader, Julius Malema, in May 2016, Zwane denied travelling with the Guptas on their trip to Switzerland in January to persuade Glencore to sell Optimum coal mine to their companies Oakbay and Tegeta; and
- c. In a written reply to parliamentary questions from Freedom Front Plus MP, Anton Alberts on 8 June 2017, Zwane repeated this denial, saying he had gone on the trip accompanied by an official of his department "*to promote mining and [to] address company issues relating to the investment climate in the country in general, and to mitigate imminent retrenchment*". Zwane also denied that he had any direct or indirect interests in Oakbay or Optimum mine.
- d. The parliamentary questions and Zwane's replies are attached hereto and marked as **MJZ 37A to MJZ 38**.

52.

The travel and accommodation records for Zwane between 2 and 7 December 2015 indicate that these denials are false.

53.

Under Zwane, the Department of Mineral Resources has also approved the release of billions of rands in mine rehabilitation funds to Tegeta in apparently unlawful circumstances. The Public Protector investigated the transfer to Bank of Baroda accounts of:

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- a. R280 million from the Koorfontein Rehabilitation Trust Fund on 23 May 2016;  
and
- b. R1,469,916,933.63 billion from the Optimum Mine Rehabilitation Trust Fund on  
21 June 2016.

54.

The Public Protector reported on the apparent illegalities in the Department's release of these mine rehabilitation funds in the State of Capture report. The Public Protector found that, in respect of both trust funds.

*"It is clear and apparent that the funds were not ring-fenced for the purposes of investment and capital growth. The interest payment on all the investment accounts were not reinvested and recapitalised but were transferred to the Baroda Main account and utilised."*

55.

In an affidavit filed by former Finance Minister Pravin Gordhan in litigation between the Minister of Finance and Oakbay Investments, attached hereto and marked as **MJZ 39**, Minister Gordhan also expressed alarm at the Department of Mineral Resources' written approval of the release of funds from the Optimum Mine Rehabilitation Trust Fund's Standard Bank account to the Bank of Baroda – particularly in circumstances where the Standard Bank account was closed because of suspicious and unusual transactions on the account. The FIC's report is attached hereto and marked **MJZ 40**.

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56.

The fate of the mine rehabilitation funds is unknown.

### **Zwane appoints Gupta associates as his advisors, despite conflicts of interest**

57.

As Minister of Mineral Resources, Zwane has appointed known Gupta associates as his advisors, most notably Kubentheran ("Kuben") Moodley and Malcolm Mabaso.

58.

Zwane appointed Moodley as his special advisor. The Public Protector's report records that Moodley served as his advisor in 2016, during the Tegeta purchase of Optimum Coal mine.

- a. Moodley is a known friend of the Gupta family and Essa, the Guptas close business associate and sole director, inter alia, of Elgasolve (which holds a 21.5% stake in Mabengela Investments) and VR Laser Services, a company in which the Gupta family's investment vehicle and Duduzane Zuma holds shares.
- b. Moodley is the sole director of Albatime (Pty) Ltd, a company that made a R10 million payment for the benefit of Tegeta towards the acquisition of Optimum Coal Mine.

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- c. Moodley is married to Devapushpam Viroshini Naidoo, who served on the Eskom Board as a non-executive Director from 11 December 2014 to 2016, which includes at the time of the sale of Optimum Coal Mine and the conclusion of Eskom's coal-supply contracts with new mine-owner Tegeta.
- d. As the Public Protector found, Zwane's appointment of Moodley as his special advisor in these circumstances, presented a conflict of interest – as *“Zwane is responsible for ensuring policymaking and policy implementation of service delivery for Eskom. He also oversees the regulation of the MPRDA [Mineral and Petroleum Resources Development Act]. In the execution of his functions the Minister relies on advisors”*.
- e. Moodley also has business ties to Mark Vivian Pamensky, another close business associate of the Gupta family. Pamensky has served as a director of the Guptas' company Oakbay Resources and Energy (Pty) Ltd (“Oakbay”) from 25 September 2014 to 10 June 2017, and as a non-executive Director of Eskom from 11 December 2014 to November 2016). Pamensky is also a director of Shiva Uranium, in which Oakbay has a 74% stake and Tegeta a 19.6% stake; Yellow Star Trading 1099, of which Essa is a director; and ORE, which is 64% owned by Atul Gupta. Moodley served with Pamensky as directors of BIT Information Technology (Pty) Ltd from 4 March 2004 to 16 March 2005, and is said to be a friend of Pamensky.

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59.

Zwane also appointed Malcolm Mabaso as his personal advisor in 2016:

- a. Mabaso is a former business associate of Essa, having served with Essa as a director of Premium Security and Cleaning Services (Pty) Ltd from July 2013 to October 2015.
- b. Mabaso was reportedly brought to National Treasury by Minister Des van Rooyen, on the first day of his fleeting spell in office as Minister of Finance in December 2016. Minister Van Rooyen appointed Ian Whitley and Mohamed Bobat – both business associates of the Gupta family and Eric Wood – as his advisors. However, on his arrival at Treasury, Minister Van Rooyen also sought to ensure that Mabaso was given a desk, despite Mabaso not being a Treasury or Department employee.

**Minister Zwane takes instruction from Gupta associates on official public statement**

60.

Emails recovered from the Sahara computer server evidence that the Guptas and their known associates (including Duduzane Zuma and Nazeem Howa, the former CEO of the Gupta-owned company, Oakbay), have directed and influenced Zwane in the public and media statements he makes as Minister of Mineral Resources.

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61.

In an email from Howa to Duduzane Zuma and Tony Gupta on 2 February 2016, attached hereto and marked **MJZ 41** to **MJZ 42**, Howa listed fourteen questions he anticipated Zwane could expect from the journalists at a forthcoming Mining Indaba. Howa drafted comprehensive answers for Zwane on matters sensitive to the Guptas (including Zwane's alleged closeness to the Gupta family, the sale of the Optimum mine and his inexperience as a mining minister). Howa requested Tony Gupta's and Duduzane Zuma's further input, stating:

*"I need some help on some of the answers. I think we should also prepare for a question of his role around the Waterkloof landing. Perhaps I can sit with someone this side to help me polish and add to the answers. Let's chat when you have a chance to review."*

62.

In February and March 2016, Howa also exchanged a series of emails with employees of Bell Pottinger (the UK-based, public relations firm hired by the Guptas) over public statements concerning Zwane's engagement with the Guptas, particularly during Zwane's trip to Switzerland. These emails evidence the Gupta's sustained efforts to direct public statements from and concerning Zwane, as Minister of Mineral Resources, and their concern to conceal their relationship with the Minister. The emails are attached hereto and marked **MJZ 43** to **MJZ 44**.

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63.

The emails also indicate that Zwane was discussing Cabinet business with the Guptas, and taking instructions from them, is further supported by the fact that, in July 2016, Bell Pottinger told *Fin24* reporters that it was in possession of the findings of the inter-ministerial committee set up by Cabinet on 13 April 2016 (with Zwane as its chairperson) to investigate the closure of the Guptas' South African bank accounts. Bell Pottinger advised *Fin24* that the Inter-Ministerial Committee was recommending a commission of inquiry into the country's banks, and that Zwane should be directly contacted. This was two months before Zwane made these findings public on 2 September 2016. The *Fin24* report on the incident is attached hereto and marked **MJZ 45**.

64.

Zwane issued a public statement on 1 September 2016, announcing that Cabinet had agreed on the recommendation of the Inter-Ministerial Committee that a judicial inquiry investigating why South Africa's banks had blacklisted Gupta-owned businesses. The recommendation included that the inquiry look into the current mandates of the Banking Tribunal and the Banking Ombudsman; consider the current Financial Intelligence Centre Act and the Prevention of Combating of Corrupt Activities Act in relation to the banks' conduct; reconsider South Africa's clearing bank provisions to allow for new banking licences to be issued; and investigate the establishment of a state bank of South Africa with the possible corporatisation of the Post Bank to be considered as an option. A report of the statement issued by Zwane is attached hereto and marked **MJZ 46**.

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65.

Zwane was severely rebuked by the ANC and the Presidency, who distanced themselves from Zwane's statement about a judicial inquiry into the banking sector and denied that the recommendation had Cabinet backing. Media reports of the statements issued by the ANC and the Presidency are attached hereto and marked **MJZ 47** to **MJZ 48**. Zwane refused to apologise for the misleading statement or to explain what drove him to mislead the public about what the Cabinet had decided.

#### **Zwane abused his position on the Inter-Ministerial Committee**

66.

In addition to misrepresenting Cabinet's response to the recommendations of the Inter-Ministerial Committee, Zwane is also alleged to have abused his powers as chair of the committee by improperly trying to influence banks to keep their Gupta-held accounts open.

67.

In an affidavit filed on behalf of Nedbank in *Minister of Finance v Oakbay Resources and Others* (litigation concerning the Minister of Finance's powers to interfere in bank-client relations), Nedbank's CEO, Mark Brown, attests to having attended a meeting with Zwane in May 2016, as chairperson of the Inter-Ministerial Committee. Zwane was accompanied by Minister Faith Muthambi and her advisor, Mzwanele Manyi (who are not appointed as members of the committee), and not the Minister of Finance and Minister of Labour who were its appointed members. Mark Brown states that, at this meeting, Zwane attempted

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to persuade Nedbank to keep Gupta companies as clients and to become their primary banker. The relevant portion of the affidavit is attached hereto and marked **MJZ 49** and **MJZ 50**.

68.

Attached hereto and marked **MJZ 51**, is the Public Protector's 'State of Capture' report.

### **CHARGES**

#### **Fraud**

69.

We allege that Zwane committed Fraud in that he unlawfully and intentionally made misrepresentations knowing it was false which caused actual and/or potential prejudice.

#### **Theft**

70.

We allege that Zwane committed Theft.

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**Extortion**

71.

We allege that Zwane's conduct, as detailed above, was unlawful and intentional as he obtained advantages by exerting pressure which induced the handover of the advantages.

**High Treason**

72.

In terms of **Section 96** of our Constitution:

- "(1) Members of the Cabinet and Deputy Ministers must act in accordance with a code of ethics prescribed by national legislation.*
- (2) Members of the Cabinet and Deputy Ministers may not-*
- (a) undertake any other paid work;*
  - (b) act in any way that is inconsistent with their office, or expose themselves to any situation involving the risk of a conflict between their official responsibilities and private interests; or*
  - (c) use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person."*

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73.

Furthermore, each Minister must swear/affirm before the Chief Justice or another judge designated by the Chief Justice, as follows:

*"I, \_\_\_\_\_, swear/solemnly affirm that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other law of the Republic; and I undertake to hold my office as Minister/Deputy Minister with honour and dignity; to be a true and faithful counsellor; not to divulge directly or indirectly any secret matter entrusted to me; and to perform the functions of my office conscientiously and to the best of my ability."*

74.

We allege that Zwane's conduct, as detailed above, constitutes high treason as it violated, threatened and endangered the existence, independence and security of the Republic of South Africa, or had the effect or potential effect of changing the Constitutional structure of the Republic of South Africa.

75.

Zwane, as a citizen of the Republic of South Africa and Minister of Mineral Resources, unquestionably owed his allegiance to the Republic. He intentionally and unlawfully participated in activities which violated, threatened and endangered the existence, independence and security of the Republic.

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76.

In terms of **Section 51(1)** of the Criminal Law Amendment Act 105 of 1997 (subject to subsections (3) and (6)), a Regional Court or a High Court shall sentence a person it has convicted of High Treason, to imprisonment for life.

### **Corruption**

77.

We allege that Zwane's conduct, as detailed above, constitutes contraventions of the following sections of The Prevention and Combating of Corrupt Activities Act 12 of 2004 ("POC"):

a. **Section 3** of the POC, which states:

*"Any person who, directly or indirectly-*

- (a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or*
- (b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner-*
  - (i) that amounts to the-*

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- (aa) *illegal, dishonest, unauthorised, incomplete, or biased;*  
*or*
- (bb) *misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;*
- (ii) *that amounts to-*
  - (aa) *the abuse of a position of authority;*
  - (bb) *a breach of trust; or*
  - (cc) *the violation of a legal duty or a set of rules,*
- (iii) *designed to achieve an unjustified result; or*
- (iv) *that amounts to any other unauthorised or improper inducement to do or not to do anything, is guilty of the offence of corruption."*

b. **Section 4** of the POC, which states:

*"(1) Any-*

- (a) *public officer who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or*

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- (b) *person who, directly or indirectly, gives or agrees or offers to give any gratification to a public officer, whether for the benefit of that public officer or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner-*
- (i) *that amounts to the-*
    - (aa) *illegal, dishonest, unauthorised, incomplete, or biased; or*
    - (bb) *misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;*
  - (ii) *that amounts to-*
    - (aa) *the abuse of a position of authority;*
    - (bb) *a breach of trust; or*
    - (cc) *the violation of a legal duty or a set of rules;*
  - (iii) *designed to achieve an unjustified result; or*
  - (iv) *that amounts to any other unauthorised or improper inducement to do or not to do anything, is guilty of the offence of corrupt activities relating to public officers.*

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(2) Without derogating from the generality of section 2 (4), **'to act'** in subsection (1), includes-

- (a) voting at any meeting of a public body;
- (b) performing or not adequately performing any official functions;
- (c) expediting, delaying, hindering or preventing the performance of an official act;
- (d) aiding, assisting or favouring any particular person in the transaction of any business with a public body;
- (e) aiding or assisting in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person in relation to the transaction of any business with a public body;
- (f) showing any favour or disfavour to any person in performing a function as a public officer;
- (g) diverting, for purposes unrelated to those for which they were intended, any property belonging to the state which such officer received by virtue of his or her position for purposes of administration, custody or for any other reason, to another person; or
- (h) exerting any improper influence over the decision making of any person performing functions in a public body."

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c. **Section 7** of the POC, which states:

*“(1) Any-*

*(a) member of the legislative authority who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or*

*(b) person who, directly or indirectly, gives or agrees or offers to give any gratification to a member of the legislative authority, whether for the benefit of that member or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner-*

*(i) that amounts to the-*

*(aa) illegal, dishonest, unauthorised, incomplete, or biased; or*

*(bb) misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;*

*(ii) that amounts to-*

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- (aa) *the abuse of a position of authority;*
- (bb) *a breach of trust; or*
- (cc) *the violation of a legal duty or a set of rules;*
- (iii) *designed to achieve an unjustified result; or*
- (iv) *that amounts to any other unauthorised or improper inducement to do or not to do anything,*

*is guilty of the offence of corrupt activities relating to members of the legislative authority.*

- (2) *Without derogating from the generality of section 2 (4), 'to act' in subsection (1) includes-*

- (a) *absenting himself or herself from;*
- (b) *voting at any meeting of;*
- (c) *aiding or assisting in procuring or preventing the passing of any vote in;*
- (d) *exerting any improper influence over the decision making of any person performing his or her functions as a member of; or*
- (e) *influencing in any way, the election, designation or appointment of any functionary to be elected, designated or appointed by, the legislative authority of which he or she is a*

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*member or of any committee or joint committee of that legislative authority.”*

d. **Section 21** of the POC, which states:

*“Any person who-*

- (a) attempts;*
- (b) conspires with any other person; or*
- (c) aids, abets, induces, incites, instigates, instructs, commands, counsels or procures another person, to commit an offence in terms of this Act,*

*is guilty of an offence.”*

e. **Section 34** of the POC, which states:

*“(1) Any person who holds a position of authority and who knows or ought reasonably to have known or suspected that any other person has committed-*

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- (a) *an offence under Part 1, 2, 3 or 4, or section 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2;*  
*or*
- (b) *the offence of theft, fraud, extortion, forgery or uttering a forged document, involving an amount of R100 000 or more;*

*must report such knowledge or suspicion or cause such knowledge or suspicion to be reported to the police official in the Directorate for Priority Crime Investigation referred to in section 17C of the South African Police Service Act, 1995, (Act 68 of 1995)."*

78.

In terms of **Section 26** of POC:

*"(1) Any person who is convicted of an offence referred to in-*

*(a) Part 1, 2, 3 or 4, or section 18 of Chapter 2, is liable-*

- (i) in the case of a sentence to be imposed by a High Court, to a fine or to imprisonment up to a period for imprisonment for life;*

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- (ii) *in the case of a sentence to be imposed by a regional court, to a fine or to imprisonment for a period not exceeding 18 years; or*
- (iii) *in the case of a sentence to be imposed by a magistrate's court, to a fine or to imprisonment for a period not exceeding five years.*
- (3) *In addition to any fine a court may impose in terms of subsection (1) or (2), the court may impose a fine equal to five times the value of the gratification involved in the offence."*

79.

With reference to the contents of this affidavit, I humbly request that the elements of criminal activities such as, but not limited to, Extortion, Fraud, Theft, Treason and Corruption be thoroughly investigated by the SAPS and other relevant law enforcement authorities against Zwane.

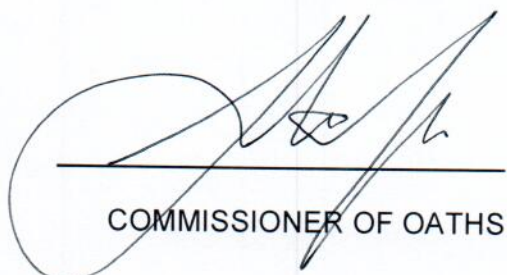
Signed at Randburg on this 24 day of July 2017.

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DEPONENT

I CERTIFY that the deponent has acknowledged that ~~she~~/he knows and understands the contents of this Affidavit which was signed and sworn to before me at RANDBURG on this 24<sup>th</sup> day of JULY 2017, the regulations contained in Government Notice No. R35 dated the 14 March 1980 having been complied with.

**ANDREA KORFF**  
PRAKTISERENDE PROKUREUR/PRACTISING ATTORNEY RSA  
KOMMISSARIS VAN EDE/COMMISSIONER OF OATHS  
1085 JUSTICE MAHOMED STREET  
BROOKLYN  
TEL: 087 701 5874



COMMISSIONER OF OATHS