

**IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING  
EFFORTS OR ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION  
OR PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES**

In the matter between:

**JACOB GEDLEYIHLEKISA ZUMA**

Applicant

and

**JUSTICE SISI KHAMPEPE, THE CHAIRPERSON  
OF THE COMMISSION**

Respondent

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**ANSWERING AFFIDAVIT**

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I, the undersigned,

**ISHMAEL ANTHONY MMAKWENA SEMENYA**

declare and affirm as follows:

- 1 I am an adult male practising as an advocate and as a Senior Counsel under the auspices of the Legal Practice Council.
- 2 The averments made herein are true and correct and are, save where I say so or the context indicates otherwise, within my own personal knowledge and belief.

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3 I point out at the outset that I am not a party to the application: Justice Khampepe is cited as the Respondent. It is the practice that a Judge does not make an affidavit, certainly not in proceedings over which she is presiding, as will be the case here. However, I am the Commission's Chief Evidence Leader. Like the other Evidence Leaders, I have a direct and substantial interest in this application. In addition, as counsel to the Commission, I have the responsibility to advise on whether the application ought to be opposed. On the bases set out hereunder, I submit that the application ought to be opposed on behalf of the Chairperson. Moreover, as the issues that fall to be dealt with in this application are in the main matters of law and interpretation, I submit that it is appropriate that it is I who makes the Answering Affidavit on behalf of the Commission. I record that this is the Commission's Answering Affidavit in opposition to all the relief that the Applicant seeks. I further record that I am duly authorised to oppose the Applicant's application and make this affidavit on behalf of the Commission.

4 I have read the Founding Affidavit. I intend responding to the allegations therein. I submit however that, before so responding, it will be helpful and instructive were I to highlight certain matters relating to the work of the Commission, the main bases on which the Applicant seeks the relief set out in the Notice of Motion and my brief response to them and the legal principles that are applicable in a case such as this. Such an approach will allow me to indicate at the outset what are the areas of dispute between the Applicant and the Commission and I submit will shorten quite considerably my responses to the allegations made in the Founding Affidavit.

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## **PURPOSE OF THE APPLICATION**

5 I begin by noting the following. The main purpose of the Applicant's application is that the Chairperson is recused from the Chairpersonship or membership of the Commission; and is recused from dealing in any manner with any aspect of the Commission which concerns the Applicant. Before addressing the allegations made in the Applicant's founding affidavit, I would like to make some observations which point to the fact that the application for the recusal of the Chairperson is spurious, vexatious, scurrilous and even malevolent. I say this for reasons set out hereunder.

5.1 The Applicant knew or ought to have known, as early as 29 May 2025, that the Proclamation establishing this Commission announced that Justice Khampepe would be the Chairperson for the Commission.

5.2 He knew or ought to have known that the terms of reference would point, in part, to a period when he served as the President of the country.

5.3 If *bona fide*, the Applicant would have brought the application for the recusal of the Chairperson at that time, even if specious, on the bases that he now advances.

5.4 On receipt of the Rule 3.3 Notice, he ought to have realised that he is implicated in a matter in which the Chairperson was to preside. At that stage he elected not to apply for the Chairperson's recusal, (clearly

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indicating his acquiescence in her appointment and in effect perempting the challenge that he now brings.). Instead, the Applicant requested an extension for him to file a response. Thereafter, when the Commission granted the extension that the Applicant sought, he sought a further extension. (In confirmation of the foregoing averments, I annex hereto as "A", "B" and "C" the letters between the Applicant's attorneys and the Commission.

- 5.5 I submit that such conduct is seriously at odds with the allegations that he now makes about his emotive reservations about appearing at a Commission presided over by the Chairperson.
- 5.6 Insidiously, the Applicant ascribes, without providing a morsel of evidence, an improper motive to the Chairperson and me. More disturbingly, the Applicant alleges that the Chairperson and I held "secret" communications. The Applicant does not deem it necessary to explain why the Chairperson and I could hold "secret" meetings regarding the work of the Commission. This is an egregious insult, impugning the integrity of the Chairperson and myself.
- 5.7 Confounding the problem, the Applicant alleges that he has evidence indicating my impropriety and that of the Chairperson.
- 5.8 Without cause, the Applicant states that he will "consciously and deliberately" not disclose that evidence.

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- 5.9 With eminent counsel who surrounds him, the Applicant would have been advised that an application of the nature he is bringing, requires him to make his case in the founding affidavit. He elected not to do so, but instead threatens that he will do so at a later stage.
- 5.10 Better advised, the Applicant would have been told that he cannot make out his case in the Replying affidavit: the rules of procedure do not permit that.
- 5.11 In the very nature of my appointment as the Evidence Leader, I naturally speak to the Chairperson regarding matters of the Commission, as I do to the other Commissioners, my team and other participants in the Commission. Nothing can be improper in my doing so, given the fact that the task of everyone in the Commission is to assist the Commission to establish the evidence upon which it can make factual findings and recommendation to the President on the issues of public interest that triggered the establishment of the Commission (as well as any other matters incidental thereto).
- 5.12 The relief that the Chairperson should refer the alleged misconduct of the Chairperson to the Judicial Service Commission is startling. If there ever was any sound basis for alleged misconduct on the part of the Chairperson, the Applicant would clearly approach the Judicial Service Commission to adjudicate on that matter.

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- 5.13 The relief for the Chairperson's "partial" recusal is irrational. If there is any impairment on the Chairperson to preside over the Commission, it would apply to the whole of the Commission.
- 5.14 The Constitutional Court judgments which evoke the Applicant's ire were majority judgments in which other Justices of the Constitutional Court concurred. It would be unfounded to allege that all other Justices who concurred have personal animosity towards the Applicant.
- 5.15 Finally, I would have expected the Applicant, as a former Head of State, to have acted *bona fide* and to take South Africa and her people into his confidence. I explain more fully hereunder.

#### **GROUND FOR THE RECUSAL**

- 6 The Applicant in essence relies on three grounds for the recusal of the Chairperson. Briefly, these grounds are:
- 6.1 the Chairperson was a member of the TRC and also of its Amnesty Committee as well as being the Deputy National Director of Public Prosecutions under Advocate Ngcuka;
- 6.2 she allegedly gave me advice on how to oppose an application that had been brought for my recusal as the Chief Evidence Leader; and

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6.3 she was a member of the CC that delivered judgments that were adverse to the Applicant and penned two of those judgments.

7 In a brief response to the application, I respectfully point out the following. An application for recusal is not there simply for the asking. A proper case for such recusal must be made by the applicant, who bears the onus of alleging and proving the following:

7.1 the facts on which he relies; and

7.2 that a reasonable person would reasonably come to the conclusion that on those facts the person whose recusal is sought will not bring an independent mind to bear on the matter before him or her.

8 I submit that the Applicant has not alleged nor proven facts that suggest that a recusal is warranted. In this regard, I respectfully point out that, for the purposes of the Applicant's application, the following two principles are relevant. First, the fact that the member of a panel whose recusal is sought has had a previous professional relationship with a person who may appear at the proceedings does not in itself constitute a ground of recusal. Second, the fact that a member of a panel has given a decision that was adverse to a person who may appear at the proceedings is also not a basis for seeking her recusal.

9 I further submit that in respect of the foregoing two principles it is necessary to bear the following in mind. As is clear from the reason why the Commission

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was established, it is required to inquire into what transpired over a period of more than 20 years; and the persons whose conduct is in issue are from various state departments. Accordingly, the Applicant is but one of many state actors whose conduct needs to be inquired into. In addition, as emerges from the Rule 3.3 Notice served on the Applicant, the matters in respect of which adverse comments about him are made are quite limited. The foregoing, I submit, are factors that need to be taken into account to determine whether the complaints that the Applicant make against the Chairperson justify that she be recused.

10     Aside from an alleged apprehension of bias, there is a further issue that the Applicant raises as a ground for the Chairperson's recusal: he alleges that there was a "private and secret" communication from the Chairperson to me in respect of an application that the Minister of Justice and the NDPP had brought for my recusal. I submit that, as I set out hereunder, as the Commission's proceedings are inquisitorial in nature and frequent interactions between us is necessary, the allegation is based on a misconception of how the various role players in the Commission may interact with another.

11     In light of the foregoing, I submit that among the matters that require addressing in this application are the following:

11.1    why the Commission was established; and the tasks that the Commission is required to perform;

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- 11.2 the nature of the Commission's proceedings; and the principal role players in the Commission's work and the tasks they perform; and
- 11.3 the relationship between the different role players; and the duty to be fair.
- 12 In addition, I submit that the test that needs to be met before an application for recusal of the Chairperson of a Commission such as this may be granted needs to be considered.
- 13 These are the principal matters that I will address in the remainder of this affidavit before I respond to the allegations in the Founding Affidavit.

#### **ESTABLISHMENT OF AND TASKS AND WORKINGS OF THE COMMISSION**

- 14 The Commission was established as a result of a settlement agreement between the President and the applicants in the Calata matter before the Gauteng Division of the High Court, Pretoria. In that application, it was alleged that over a period of many years the victims and families of the victims of apartheid-era atrocities raised concerns about the lack of investigations and prosecutions of the perpetrators of apartheid-era crimes. They called for accountability for gross human rights violations following the Truth and Reconciliation Commission's final report in March 2003.
- 15 On 29 May 2025, President Ramaphosa issued a Proclamation under Government Notice 264 of 2025, establishing the Commission. Its task in the

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main is to inquire into, make findings and report on and make recommendations concerning among other matters the following:

- 15.1 whether and by whom efforts or attempts were made to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases;
  - 15.2 whether such members improperly colluded with such attempts; and
  - 15.3 whether action should be taken where persons may have unlawfully attempted to influence or pressure such members to stop investigations or where members colluded with or succumbed to such measures.
- 16 In regard to the Commission's functioning, I aver and submit that in general the position may be summarised as follows.
- 17 First, it is the task of the Commissioners (Justice Khampepe, Judge Kgomo and Advocate Gabriel SC) to assess evidence, whether documentary or oral, that is presented to them and having regard to their findings to make recommendations. Importantly and significantly, I submit, they have no power to take action against any person: they may only make *recommendations* to the President.
- 18 Second, the overall responsibility to present the evidence of witnesses at the Commission rests with the Evidence Leaders. In this regard, I point out that

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the power to appoint Evidence Leaders rests with the Chairperson. She has appointed the Evidence Leaders and appointed me as the Commission's Chief Evidence Leader in July 2025.

19 Third, the proceedings of the Commission are inquisitorial in nature: they are not adversarial. The goal of the Commissioners and the Evidence Leaders is to establish all the relevant facts. As a result, unlike in a criminal or civil trial, or even in an ordinary inquiry whose task is to apportion blame, the Commissioners themselves may play a role in advising the Evidence Leaders on whom to call as witnesses. To this end, statements of persons whom the Evidence Leaders propose to call as witness would be made available to the Commissioners in advance so that the Chairperson can advise on the sequence in which she would prefer the evidence to be led, and whether cross-examination of a particular witness should be permitted [under Rule 8 of the Commission's Rules].

20 Fourth, of significance to this application, is the following consequence that follows from the foregoing matters. There is a need for frequent interaction between the Commissioners, on the one hand, and Evidence Leaders on the other. These interactions take place in the absence of other persons – for there are no “parties” in a Commission such as this. Accordingly, while such interactions may be described as “private” in that sense, they are not secret. Nor can it be suggested that there is anything untoward about such interactions.

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- 21 Fifth, given our respective roles, the interactions referred to immediately above would take place more frequently and regularly between the Chairperson and me. To that end: where necessary, I would communicate to the Chairperson the views of the Evidence Leaders (including mine) and her views to the Evidence Leaders; and the Chairperson would communicate to me the views of the Commissioners (including her own).
- 22 Sixth, the processes set out above are followed to ensure that the work of the Commission runs smoothly.
- 23 Seventh, none of the foregoing matters is in conflict with the Commission's Rules and Regulations, which are designed to ensure that the processes followed by the Commission are fair.
- 24 Eighth, fairness however is achieved by the Evidence Leaders (and the Commissioners) testing the evidence of persons who make allegations against others and also the version of those who deny the allegations. In addition, the right of complainants and implicated persons to be legally represented at the Commission's proceedings is designed to ensure that their respective rights and interests are protected.

### **THE APPLICANT'S "COMPLAINTS"**

#### **The First Complaint – The Chairperson's Role in the Constitutional Court Judgments Against Him.**

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25 As I have pointed out above, the Applicant relies on three grounds for the  
recusal of the Chairperson.

26 As regards the first ground, in essence the Applicant alleges as follows. Based  
on two judgments that the Chairperson penned while she was a Justice of the  
Constitutional Court, it was "self-evident" that the Chairperson "was motivated  
by deep-seated personal hatred, animosity and/or anger specifically directed  
towards" the Applicant.

27 While acknowledging that the Chairperson's judgments were the majority  
judgments in each case, the Applicant goes on to allege that "sufficient  
evidence" of the allegation set out in the paragraph immediately above is to be  
gained from the minority judgments of the two dissenting Justices. The  
Applicant goes on to allege that millions of people in the country "continue  
genuinely to believe that the judgment was driven by undue vengeance,  
bitterness and highly personalised animosity".

28 I respectfully submit that the Applicant's allegations as set out in the Founding  
Affidavit do not constitute a proper ground for the Chairperson to recuse  
herself. In this regard, I submit that the correct legal position is as follows:

28.1 it would be impossible to conduct the administration of justice in the  
proper way if judicial officers were to be recused because at some prior  
time they had expressed unfavourable opinions as regards persons  
who subsequently come before them;

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28.2 that is not a ground of recusal; and

28.3 the fact that the findings were made in judicial proceedings, which were published, in the discharge of a duty, rebuts any presumption of malice or ill-feeling.

**The Second Complaint – The Chairperson’s Former Role as Deputy National Director of Public Prosecutions as well as a member of the TRC**

29 In addition, the Applicant alleges that the fact that the Chairperson was the Deputy NDPP as well as a member of the TRC Amnesty Committee renders her “distinctively unsuitable and/or automatically disqualified” from being the Chairperson of the present Commission. In support of that allegation, the Applicant goes to allege that witnesses who may appear before the Commission may include former colleagues or superiors from the TRC or NDPP. Apart from the fact that the TRC had a mandate entirely different from that of the Commission, it did not enquire into whether since 2003 there were any attempts to stop the investigation or prosecution of persons who were refused amnesty or those who did not apply for amnesty. There is no confluence of whatever nature between the terms of reference of this Commission and the issues that that the TRC confronted.

30 In respect of this issue, I submit that the correct legal position is as follows. Where a judicial officer had previously appeared for a party in a different matter, that is not a basis for his or her recusal. In this regard, I point out that it is not without significance that the Chairperson was a member of the TRC

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and the NDPP some 27 years ago. That, I submit, reinforces my contention that such association does not constitute a proper basis for her recusal. This is especially so because the matters that this Commission is required to inquire into happened after 2003, which is some five years after she left the NDPP.

**Third Complaint – The “private” and “secret” advice given to Adv Semanya SC by the Chairperson**

31 The third basis on which the Applicant seeks the recusal of the Chairperson is that she allegedly “privately and secretly” gave me advice on the application for my recusal.

32 I have already pointed out that there are numerous interactions between the Commissioners and the Evidence Leaders and between the Chairperson and me. They may well be seen as private in the sense that other persons are not present. But that is on account of the workings of the Commission. In addition, I emphasise the following. Those interactions are not secret. In the circumstances, the fact that persons not directly involved with the work of the Commission are not present does not render such interactions untoward. Indeed, the fact that the Evidence Leaders and the Commissioners occupy offices on the same floor of the building in which the Commission is housed facilitates such interactions.

33 In the paragraphs above, I have by and large set out the bases of the Commission’s opposition to the relief claimed by the Applicant. In doing so, I have responded to the thrust of the specific allegations made in the Founding

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Affidavit. I submit in the circumstances that it is not necessary for me to deal in detail with the specific allegations made therein.

- 34 The approach that I adopt is as follows. I deny every allegation made in the Founding Affidavit save to the extent that it is consistent with what has been set out above. I respectfully pray that my failure to deal with a particular allegation or contention is not construed as an acceptance thereof. I respectfully emphasise: save to the extent that I admit an allegation or accept the validity of a contention, such allegation or contention falls to be regarded as denied or refuted.

#### **AD THE APPLICANT'S FOUNDING AFFIDAVIT**

35 **Ad Paragraphs 1 to 7**

I note the allegations set out therein.

36 **Ad Paragraphs 8 to 16**

36.1 The Chairperson of the Commission has an illustrious career as a legal professional who holds an LLM degree from Harvard Law School, Massachusetts, USA.

36.2 She was appointed by the late former President Nelson Mandela as a member of the Truth and Reconciliation Commission's Amnesty Committee in 1995.

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- 36.3 In 1998, Justice Khampepe served the nation as the Deputy National Director of Public Prosecutions (the DNDPP), a position she occupied from September 1998 until December 1999.
- 36.4 In the year 2000, Justice Khampepe was elevated to the bench as Judge of the then Transvaal Provincial Division. She was thereafter, in 2007 appointed as Judge of the labour Appeal Court.
- 36.5 In 2004, Justice Khampepe oversaw the elections in Zimbabwe, upon being so appointment by former President Thabo Mbeki.
- 36.6 Justice Khampepe was seconded as a member of the Commonwealth observer group to the Presidential and Parliamentary elections in Uganda by the then Secretary General of the Commonwealth, Hon Donald C McKinnon.
- 36.7 Between April 2005 and February 2006, former President Thabo Mbeki appointed Justice Khampepe as the Chairperson of the Commision of Inquiry into the mandate and location of the Directorate of Special Operations.
- 36.8 Justice Khampepe served as the Vice-Chairperson of the National Council of Correctional Services in the period between 2005 to 2009.

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36.9 In October 2009, Justice Khampepe was elevated to South Africa's apex Court, the Constitutional Court, where she served the nation until her retirement in October 2021.

36.10 Save to the extent that the allegations in the paragraphs under reply are consistent with what I state in paragraphs 35.1 to 35.9 above, I deny such allegations.

37 **Ad Paragraphs 17 to 33**

37.1 I have already set out that the correct legal position is as follows: it is not a ground for recusal that a judicial officer has held against a party or has expressed strong opinions about his case.

37.2 It is clear that the Applicant feels strongly about what the Constitutional Court said in the two cases. In this regard, the Applicant alleges that what was said in the judgment makes it "self-evident" that the Chairperson "was motivated by deep-seated personal hatred, animosity and/or anger specifically directed towards" him.

37.3 I submit in response that despite the Applicant's strongly expressed views, which are highly personal and emotive, in order to succeed in securing an order that the Chairperson recuses herself, the Applicant is still required to prove that he fulfils the following test: would a *reasonable, objective and informed person on the correct facts reasonably apprehend that the Judge has not or will not bring an*

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*impartial mind to bear on the adjudication of the case*, that is a mind open to persuasion by the evidence and the submissions of counsel.

37.4 The test is an objective one. The requirement is described as one of "double reasonableness". Not only must the person apprehending the bias be a reasonable person in the position of the applicant for recusal, but the apprehension must also be reasonable. Moreover, apprehension that the Judge *may* be biased is not enough. What is required is an apprehension, based on reasonable grounds, that the Judge will not be impartial.

37.5 I submit with respect that the Applicant has not fulfilled that test.

37.6 There is a built-in presumption that, particularly since Judges are bound by a solemn oath of office to administer justice without fear or favour, they will be impartial in adjudicating disputes. As a consequence, the Applicant bears the *onus* of rebutting the weighty presumption of judicial impartiality. The purpose of formulating the test as one of "double reasonableness" is to emphasise the weight of the burden resting on an applicant for recusal.

37.7 What is required of a Judge is judicial impartiality and not complete neutrality. It is accepted that Judges are human and that they bring their life experiences to the Bench. They are not expected to divorce themselves from these experiences and to become judicial stereotypes. What Judges are required to be is impartial, that is, to

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approach the matter with a mind open to persuasion by the evidence and the submissions of counsel.

37.8 I also point out that as this is a matter of argument, I reserve the Commission's right to present argument on this issue at the hearing of the application.

38 **Ad Paragraphs to 34 to 37**

38.1 It is so that an application for my recusal was made – by the Minister of Justice and the NDPP.

38.2 I deny that the basis of the NDPP's application was that I had given "conflicting advice". The complaint was that I had acted for the NDPP some 17 years ago and was thus allegedly "conflicted". As was pointed out on my behalf, as I no longer act for the NDPP, I was not "conflicted".

38.3 That application was dismissed as a proper case for my recusal had not been made.

38.4 Save as is consistent with the foregoing and what I have outlined earlier, I deny the allegations in the paragraphs under reply.

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39 **Ad Paragraph 38 to 42**

- 39.1 In paragraph 38 of his affidavit, the Applicant alleges that the Chairperson “conducted herself improperly and exhibited actual bias in favour of my non-recusal”.
- 39.2 With respect, this is a grave allegation to make against a former Justice of the Constitutional Court. One would expect that proper proof thereof would be furnished – especially from a person who occupied the highest executive position in our country.
- 39.3 However, instead of providing proof, the Applicant goes on to further allege that the Chairperson “privately and secretly” gave advice to me about opposing the application. No details of the time when or the place where the advice was given are set out. Nor are details of the advice set out.
- 39.4 Quite worryingly, I submit, the Applicant goes on to allege that the reason for such omission of such details is this: “I deliberately and consciously refrain at this stage, from revealing the complete evidence available to me.”
- 39.5 The position then is this: the Applicant has evidence but has deliberately refrained from revealing it.

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39.6 I submit that the following consequences flow from the foregoing: such evidence is not before this Commission; the Applicant may not make out his case in reply; and the only allegations on which this ground of his application for the Chairperson's recusal may be determined are those set out in his Founding Affidavit.

39.7 There is one further concern that I have. It is this. I am unable to respond to the vague and unsubstantiated allegations in the paragraphs under reply.

39.8 Save as is consistent with the foregoing and what I have set out earlier, I deny the allegations in the paragraphs under reply.

40 **Ad Paragraphs 43 to 47**

To the extent that what is stated in the paragraphs under reply correctly reflect what is set out in the Rules, I do not dispute them.

41 **Ad Paragraph 48 and 49**

41.1 I have already responded to the thrust of the allegations made in the paragraphs under reply.

41.2 Save as is consistent with what I said in such response, I deny the allegations in the paragraphs under reply.

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42     **Ad Paragraphs 50 and 51**

42.1     I have already responded to the thrust of the allegations made in the paragraphs under reply.

42.2     Save as is consistent with what I said in such response, I deny the allegations in the paragraphs under reply.

43     **Ad Paragraphs 52**

43.1     I have already responded to the thrust of the allegations made in the paragraph under reply.

43.2     Save as is consistent with what I said in such response, I deny the allegations in the paragraphs under reply.

44     **Ad Paragraphs 53 to 57**

I submit that no case has been made for the relief that is sought and the application falls to be dismissed.

45     **Ad Paragraph 58.**

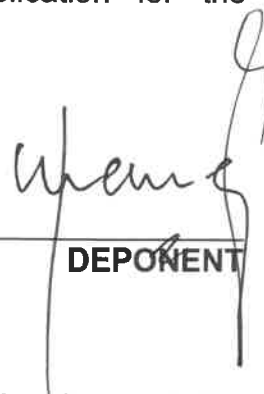
A date has already been set for oral argument to be heard.

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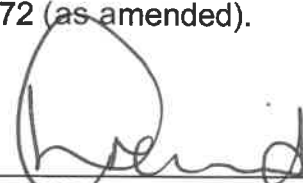
46 Ad Paragraphs 59 to 65

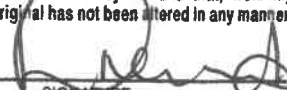
I dispute the validity of the complaints about the original timelines. Be that as it may, the Commission does not oppose the grant of the condonation sought.

**WHEREFORE** the Commission humbly pleads that the application for the Chairperson's recusal and the other relief sought be dismissed.

  
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**DEPONENT**

**I CERTIFY THAT** the deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at **SANDTON** on this **19<sup>TH</sup>** day of **DECEMBER** 2025 under compliance with the Regulations contained in Government Notice No. R.1258 dated 21 July 1972 (as amended).

  
 \_\_\_\_\_  
**COMMISSIONER OF OATHS**

<p>I certify that this document is a true copy of the original which was examined by me and that, from my observation the original has not been altered in any manner.</p> <p></p> <p>SIGNATURE</p> <p><b>DINANA REID INC</b>          Commissioner of Oaths (RSA)          Member nr: 45618          Unit C36 Block C Lonsdale, 21 Mac Mac Road &amp; Howick Close          Waterfall Park, Midrand</p> <p>Date: _____</p>
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**THE SECRETARY OF THE COMMISSION  
JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS  
REGARDING EFFORTS OR ATTEMPTS HAVING BEEN MADE  
TO STOP THE INVESTIGATION OR PROSECUTION OF TRUTH  
AND RECONCILIATION COMMISSION CASES**

**EMAILS:** [secretary@trc-inquiry.org.za](mailto:secretary@trc-inquiry.org.za) / [mongezi@ntanga.co.za](mailto:mongezi@ntanga.co.za)

**ATTENTION: ADV THOKOA**

<b>Your reference</b>	<b>Our reference</b>	<b>Date</b>
	Mr. Kwinana/Mr. Ncube	02 October 2025

Dear Adv Thokoa,

**RE: NOTICE IN TERMS OF RULE 3.3 JACOB ZUMA**

1. We act on behalf of Former President Jacob Zuma (“our client” or “President Zuma”) in this matter.
2. Our client has brought to our attention, the correspondence and accompanying Notice issued in terms of the Rules of the current Khampepe Commission. We are instructed to respond as follows:-
  - 2.1. Our client intends to apply his mind to the contents of the abovementioned documents received and to respond thereto upon obtaining the necessary legal advice.
  - 2.2. However due to issues of his current health condition and imminent overseas travelling plans, our client will be unable to meet the 14 day period referred to in Rule 3.4 and/or paragraphs 10 and 11 of the Notice.
  - 2.3. More specifically our client is scheduled to leave South Africa on 2 October 2025 and to return on or about 19 October 2025.
  - 2.4. On our calculation the 14 day period referred to above expires on 10 October 2025, i.e during the period of our client’s absence from the country.



- 2.5. Needless to say, to date he has not been in a position to have any meaningful consultations with his legal representatives. This is also partly due to the fact that he has not been furnished with the annexures to the affidavit in which he is allegedly implicated. We also hold instructions to make the necessary enquiry as to whether the state will provide any legal support to our client in view of the fact that you have approached him in his official capacity as a former head of state.
- 2.6. Accordingly President Zuma seeks an extension of the deadline to a minimum of 10 days after his return to South Africa or 31 October 2025 to consider his position and furnish a detailed response, if so advised.
- 2.7. As matters currently stand it is not totally clear in what exact way President Zuma is allegedly implicated in the matters under investigation.
- 2.8. In the meantime kindly furnish us with the missing annexures, which may shed some more light on the relevant issues.
- 2.9. All our client's rights are fully reserved.
- 2.10. Should there be any further developments in the intervening period, we will duly communicate them to you.
3. In view of all of the above we request that you convey the contents of this letter to whomsoever it may concern on your side and revert to us with the response, at your earliest convenience.
4. We trust that the above is in order and look forward to hearing from you.

Yours faithfully,



**KMNS INC.**  
*per:* THABO KWINANA





"B"

03 October 2025

**Kwinana Mbana Nkome Sibiya Inc**  
43 Wierda Road West  
Wierda Valley  
Sandton, 2196

Your Ref: Mr. Kwinana/Mr. Ncube

Dear Sir/Madam,

**RE: NOTICE IN TERMS OF RULE 3.3 JACOB ZUMA**

1. We acknowledge the receipt of your letter dated 02 October 2025 whose contents are noted. We will appreciate the former President's response by no later than **17 November 2025**. The link to the annexures is [Calata-and-Others-v-Government-of-RSA-and-Others-Case-No 2025 5245-issued.pdf](#)
2. Regarding the engagement of a private legal representative, the Commission does not have the resources to provide same. However, the Evidence Leaders' Team can give legal assistance if requested. The Johannesburg Society of Advocates ("the JSA") is also offering, pro-bono Counsel to those who might need such assistance but cannot afford.

Yours faithfully

**Adv AM Thokoa**  
Secretary



"C"

43 Wierda Road West | Wierda Valley | Sandton | 2196

t: 011 462 5589 | f: 086 561 7741 | Docex 48 Rosebank | PO Box 781276 | Sandton | 2146 | [info@kmnsinc.co.za](mailto:info@kmnsinc.co.za) | [www.kmnsinc.co.za](http://www.kmnsinc.co.za)

**THE SECRETARY OF THE COMMISSION  
JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS  
REGARDING EFFORTS OR ATTEMPTS HAVING BEEN MADE  
TO STOP THE INVESTIGATION OR PROSECUTION OF TRUTH  
AND RECONCILIATION COMMISSION CASES**

EMAILS: [secretary@trc-inquiry.org.za](mailto:secretary@trc-inquiry.org.za) / [mongezi@ntanga.co.za](mailto:mongezi@ntanga.co.za)

ATTENTION: ADV THOKOA

Your reference

Our reference

Date

Mr. Kwinana/Mr. Ncube

14 November 2025

Dear Adv Thokoa,

**RE: NOTICE IN TERMS OF RULE 3.3 JACOB ZUMA**

1. We refer to the previous correspondence between us and the Commission regarding this matter and more specifically to the extension previously granted to our client, Former President JG Zuma to file his response affidavit, if any, by 17 November 2025.
2. Due to various matters beyond our control it has not been possible to conduct all the necessary consultations or to collect the required information in the time available. As you no doubt appreciate the issues under consideration happened a few decades ago.
3. We also note with interest some of the challenges facing the Commission.
4. In the circumstances, we beg the indulgence of the Commission to grant our client a further extension so as to allow him to make a meaningful contribution to its work.
5. Kindly process this request to the appropriate structures and revert as soon as possible.

Yours faithfully,

**KMNS INC.**  
per: THABO KWINANA