

**NOTICE IN TERMS OF RULE 3.3 OF THE RULES OF 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.**

**TO: ADV ACKERMANN**

**EMAIL: [ackerare@gmail.com](mailto:ackerare@gmail.com)**

**INTRODUCTION AND ESTABLISHMENT OF THE COMMISSION**

1. On 29 May 2025, the President of the Republic of South Africa issued Proclamation Notice No. 264 of 2025, establishing 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 (“the Commission”).
2. The Commission was appointed in terms of section 84(2)(f) of the Constitution, 1996. The Honourable Madam Justice S. Khampepe serves as Chairperson, with the Honourable Mr Justice F. D. Kgomo and Adv A. Gabriel SC as members.
3. In terms of its mandate, the Commission is required to inquire into, make findings, report on, and make recommendations concerning allegations that, since 2003, efforts or attempts were made to influence, pressure, or otherwise improperly

prevent the South African Police Service and/or the National Prosecuting Authority from investigating or prosecuting TRC cases. The Terms of Reference further require the Commission to determine whether officials within these institutions colluded in such efforts, and whether further action—including investigations, prosecutions, or the payment of constitutional damages—is warranted.

4. Amongst the parties identified as having a substantial interest in these proceedings is Mr Imtiaz Ahmed Cajee.

#### **NOTICE IN TERMS OF RULE 3.3**

5. This notice is issued in terms of Rule 3.3 of the Rules of the Commission, read with the Regulations made under Government Notice R.278 of 2025.
6. The Commission's Evidence Leaders intend to present the evidence of Mr Imtiaz Ahmed Cajee (Mr Cajee). Mr Cajee makes the following allegations against you:

- 7.1 **He alleges that there was no concerted effort on your part to investigate the death of his late uncle, Mr Ahmed Timol and that you must be held accountable for failing to execute your duties. He alleges further that you placed the burden upon him to investigate his uncle's death. In this regard, he says:**

*"In my view had there been a concerted and intentional will on the part of the prosecutor/s to guide the investigator, this evidence could have*

*been presented as early as 2003 when all those involved in my uncle's matter were alive. In essence, both the NPA's PCLU and investigators from the DSO who were seized in investigating the TRC matters, shifted the responsibility to me to furnish further information to take the investigation forward, despite them having the powers and functions to investigate and prosecute. It is my considered view that they must be held accountable for failing to execute their duties. Without having regard to all available evidence, they took a decision to close the file."* [at paragraph 47]

**7.2 He accuses you of failing to work out a mechanism to ensure that the TRC Cases were investigated and prosecuted and to bring the alleged challenges of the PCLU to the attention of the Former President Thabo Mbeki. He states thus:**

*"I believe that it was a failure on the part of government officials to work out the mechanism to implement the way forward. Furthermore, this was compounded by issues relating to who was responsible for investigations. The NPA was of the view that the SAPS must conduct investigations. On the other hand, the SAPS were of the view that this was the DSO responsibility and if there was a requirement that SAPS should investigate, then either Ackermann or the NDPP were to approach the President and request him to confirm which agency should be conducting the investigations. Macadam confirmed that neither the NDPP nor Ackerman approached the President as recommended. One has to ask, if it was this clear that NPA officials were mandated to*

*approach the President to confirm who should investigate, why was it not done? ...The question must be asked if whether the NPA knew about the secret memorandums since 2003, why was it kept a secret only for it to be disclosed in 2019?” [Paragraph 195]*

*“The Full Bench were scathing on the conduct of the NPA adding that it had a duty to “assert its authority and independence and resist the political interference. It cannot be acceptable for it to simply have allowed, as it did, the manipulation of the criminal justice system in the serious manner in which it occurred.” This precisely what the PCLU did when it resided with post-TRC matters until September 2021.” [Paragraph 196]*

**7.3 He alleges that your stance that there was political interference is not true, stating that:**

*“As for political interference, Ackermann declared that he was “not specifically aware of an official policy or decision to stop, obstruct or hold back the investigations and possible prosecution of the cases recommended by the TRC.”” However, he does confirm that he was effectively stopped from pursuing the investigation and prosecution of the so-called cases arising from the South Africa’s past (TRC cases).” Ackermann explained in the Frank Chikane (Chikane) matter how Jan Wagenaar, the attorney of the suspects told him that he would be receiving a phone call (name not disclosed) from the Ministry of Justice advising him that the case against his clients must be placed on hold.*

*Shortly thereafter, he received a call from an official (name not disclosed) from the Justice Ministry informing him that the matter should be put on hold pending the developments on the guidelines to deal with TRC cases. This was followed a few minutes later by the Acting NDPP Ramaite instructing him not to proceed with the arrests. Ackermann therefore concluded that the NDPP was instructed at a political level to suspend these cases.” [Paragraph 207]*

**7.4 Further, he alleges that you failed to deal with the alleged political interference within the provisions of the NPA Act. In this regard, he states:**

*“According to the NPA Act (The ACT) that came into operation in 1998, section 31 of the NPA Act provides that a prosecutor must serve impartially, and carry out his or her functions and powers in good faith and without fear, favour or prejudice. Further that no organ of state or member of or employee of any organ of state nor any other person shall improperly interfere with, hinder or obstruct the prosecuting authority or any member thereof in the exercise or carrying out or performance of its, his or her powers. Section 41 of the Act sets out the penalties.” [Paragraph 208]*

*“I found no evidence that any of the named prosecutors, not forgetting who were experienced and held senior posts within the NPA and who alleged political interference, had registered any criminal case as empowered by the NPA Act for the irregular, interference, hindrance or*



*obstruction in the exercise of their powers. These sentiments were echoed by the Full Bench and the SCA.” [Paragraph 209]*

- Attached to this notice is the affidavit of Mr Cajee dated 9 October 2025, together with its annexures, which implicates or may implicate you in allegations regarding efforts or attempts to halt or suppress the investigation or prosecution of TRC matters, [AHMED TIMOL](#), (please click on the link to access the affidavit and its annexures).
7. The specific date and venue for the hearing at which such evidence will be presented, will be communicated to you in due course.

#### **YOUR RIGHTS AND OBLIGATIONS**

8. You are entitled to attend the hearing at which the evidence relating to the above allegations, and any other that may be led against you, is presented. You may be represented by a legal practitioner of your choice.
9. You are required to submit a statement in the form of an affidavit responding to the allegations and putting forward your own version of events relating to the ToR by 24 October 2025. Your affidavit must further specify which parts of the evidence of Mr Cajee are disputed or denied, and set out the grounds for such dispute or denial.
10. If you wish to —
- a. give evidence yourself;
  - b. call any witness in your defence; or

c. cross-examine the witness whose evidence implicates you,

you must apply in writing to the Commission for leave to do so within fourteen (14) calendar days of this notice, accompanied by your affidavit.

11. You may also apply for leave to make written and/or oral submissions regarding the findings or conclusions that the Chairperson should draw from the evidence relating to you.

### COMMUNICATION WITH THE COMMISSION

12. All correspondence, applications, and affidavits must be directed to: The Secretary of the Commission at [secretary@trc-inquiry.co.za](mailto:secretary@trc-inquiry.co.za)

**DATED** at **Sci-Bono Discovery Centre** Johannesburg on this 14<sup>th</sup> day of October 2025.

For and on behalf of the Evidence Leaders to the Judicial Commission of Inquiry into Allegations Regarding Efforts or Attempts Having Been Made to Stop the Investigation or Prosecution of TRC Cases.