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## AFFIDAVIT

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I,

**ANTON ROSSOUW ACKERMANN,**

hereby state under oath in English:

1.

I am a Special Director of Public Prosecutions in the Office of the National Director of Public Prosecutions and by virtue of a Presidential proclamation, appointed as the Head of the Priority Crimes Litigation Unit (PCLU). A copy of the relevant proclamation is attached hereto as **Annexure "A"**. Due to other work commitments, I only assumed office in May 2003.

2.

Upon my appointment, Adv Ngcuka, the then National Director, declared prosecutions arising from the TRC processes as part of the mandate of the PCLU. The PCLU at that time did not have office space and consequently, I worked between the office of the DPP: Pretoria and the office of Adv RC Macadam, who had been appointed to my staff at the VGM Building. Adv Macadam's office telephone number was (012) 845 6432. Mrs Tia Pienaar was appointed to act as a secretary for the unit and consequently, typed all the unit's correspondence, working from Macadam's office.

3.

Adv Fick SC at the DPP: Pretoria office was in possession of a large number of police dockets, which primarily related to offences allegedly committed by the Military Wing of the ANC during the Apartheid Era. Adv Fick SC was assisted by two former Security Branch members, Brits and Nel, who had been retained on contract by SAPS and seconded to Adv Fick SC. I decided to take over these dockets from Adv Fick SC after I assumed office.

## 4.

I conducted an audit of all the cases on hand at Adv Fick SC's office and established that there were 395 police dockets registered. I perused the dockets with the assistance of Nel and Brits. In the majority of cases, the suspects had been granted amnesty and could not therefore be prosecuted. In respect of each docket I perused, I consulted with Brits and Nel and thereafter, an internal office memorandum was compiled, setting out the facts of the case and indicating how the matter should be finalised. These memoranda were not addressed to any persons and were intended simply to be placed on the docket so that the status of the docket could readily be ascertained.

## 5.

These memoranda were typed by Mrs Pienaar in Macadam's office. I gave a reference number to each case that I perused. The reference number was "A" for Ackermann, followed by a number reflecting the chronological sequence in which the dockets were read. At the top of each memorandum, Mrs Pienaar would type the reference number, my name (so that any enquiries could be directed to me), Macadam's telephone number, the date of the memo and at the bottom, the initials "tp", indicating that she had typed the said memo. I attach herewith, as examples thereof, the memoranda "A40" to "A42" as **Annexures "B1" to "B3"**. The majority of the memoranda were compiled in 2003.

## 6.

When I assumed duty, Nel and Brits drew my attention to a series of dockets relating to landmine incidents. They informed me that they were of the view that the ANC leadership could be held accountable for these incidents, although there was no such evidence to this effect in the dockets. The persons responsible for these alleged incidents had all received amnesty. Brits and Nel were however adamant that there was a case against the ANC leadership. I made repeated requests for them to produce the relevant evidence, but to no avail. During the same period, I decided to prosecute former Security Branch members for the Pebco 3 incident. In discussions with the lawyer representing the accused in that matter, the issue of a case against the ANC leadership was once again raised by

him. I also requested him to furnish me with the evidence, which he declined to do. When I compiled the memorandum in respect of the landmine dockets, I therefore made a note to the effect that the issue of the ANC leadership would, at an appropriate stage, have to be considered. I also briefed the National Director of this development. At the date of this affidavit, I am not in possession of a copy of the memorandum I compiled. The original was however placed in the relevant docket. At all times, Brits and Nel were the custodians of such dockets.

7.

Shortly after my appointment, I met Commissioner Ray Lalla, the Divisional Commissioner of SAPS' Intelligence Component at his office. I was accompanied by my two deputies and the purpose of the meeting was to inform Commissioner Lalla *inter alia* about my mandate and to request him to channel intelligence relating thereto to my office. I was unaware that this meeting was being recorded by audio and visual means and consequently, did not consent to any such recording.

8.

Since neither Nel nor Brits nor the lawyer representing the accused in the Pebco 3 matter produced any evidence implicating the ANC leadership, I did not take this matter any further. To my surprise, my two deputies and I were summoned to a meeting by Mr Ngcuka. Mr Ngcuka informed me that the National Commissioner had addressed a meeting of Directors General and alleged that on a Monday, I planned to have the President arrested and Macadam planned to arrest six generals in the SANDF. Mr Ngcuka further informed me that the National Commissioner alleged that he had proof thereof. Mr Ngcuka wanted my assurance that this was not the case and I gave the necessary assurance. Mr Ngcuka showed me a videotape which I recognised as a recording of my meeting with Commissioner Lalla. Mr Ngcuka further stated that it was alleged that I was in possession of police dockets, implicating the President. I gave him my assurance that I was not in possession of such dockets and that all the relevant dockets were in the possession of Brits and Nel at the DPP: Pretoria office. Minister Maduna then joined Mr Ngcuka and I again assured the Minister

that I was not in possession of any such dockets and that I was not a party of any attempt to prosecute the President and the ANC leadership. Thereafter, Mr Ngcuka then made arrangements for himself, Adv Pikoli (who was then the Director General of Justice), myself and other members of the NPA to proceed to the DPP: Pretoria office. At the office, Commissioners Pruis and Williams arrived. In the presence of all the above parties, Mr Ngcuka requested Brits (Nel's contract at that stage had not been renewed) to produce the dockets which contained the evidence against the President and the ANC leadership. Brits was unable to produce any dockets. Mr Ngcuka then instructed Commissioners Williams and Pruis to immediately have all the police dockets removed from the DPP: Pretoria office and to take them into police safekeeping. He further indicated that the dockets were police property and that the police had to take possession of the dockets and conduct their own investigations. If however decisions were required in respect of individual dockets, those dockets should be resubmitted to the PCLU for a decision. Both Williams and Pruis appeared to be surprised by this event.

9.

Thereafter, I was absent from the office. Upon my return, my deputy, Macadam informed me that Mr Ngcuka had instructed him to peruse all the evidence involving the ANC and to furnish him with a report. Macadam showed me the report he had submitted to Mr Ngcuka. The report was to the effect that there was no basis upon which to investigate the ANC leadership. Macadam further informed me that Mr Ngcuka had requested him to brief Minister Maduna and members of the Presidency of this position, which he had done. Subsequently, Mr Ngcuka released a press statement on 15 May 2004 to the effect that there was no basis upon which to investigate the ANC leadership. A copy of the press statement is attached as **Annexure "C"**.

10.

All the dockets which were stored at the DPP: Pretoria office were removed, except for certain dockets in respect of which I still had to make a decision. I established that the dockets removed from the DPP: Pretoria office were taken to the Crimes Against The State Unit, headed by Senior Superintendent Louis

Bester, which unit formed part of the Divisional Head Quarters of SAPS. I further established that Brits continued to work from Senior Superintendent Bester's office. There was limited contact between the PCLU and Brits in respect of individual dockets which required decisions.

11.

Later in 2004, Mr Ngcuka resigned and Dr Ramaite SC was appointed as the Acting National Director. In late 2004, I was informed by Dr Ramaite SC and/or Mr Hofmeyr that they had attended a meeting in Cape Town with *inter alia* the Minister of Justice & Constitutional Development and the National Commissioner. They informed me that it had been alleged by the National Commissioner that the PCLU was in possession of 400 dockets and planned to paralyse Government by arresting key Government officials who had been part of the ANC's Liberation Movement. This allegation was not true, but as a consequence, I was required to assist Dr Ramaite SC to compile a lengthy memorandum to the Minister of Justice & Constitutional Development, stating the correct position and again confirming that there was no investigation against the ANC leadership.

12.

Subsequently, Adv Pikoli was appointed as the National Director and in the beginning of 2006, guidelines for the prosecution of TRC cases were approved. In terms of the guidelines, all the TRC cases would be managed by the PCLU, which would advise the National Director, who would make decisions. The guidelines further contemplated the PCLU being assisted in the execution of its duties by NIA, DOJCD, SAPS and the DSO. As the Head of the PCLU, I would have played a key role in the matter of TRC cases.

13.

In mid-2006, I was called in by Adv Pikoli, who informed me that I was once again being accused of acting irresponsibly and not informing him of my activities. He did not elaborate, but informed me that Dr Ramaite SC would take over my role in the TRC matters. He further explained that this would alleviate any possible criticism of the NPA. I accepted his explanation.

14.

On 20 August 2007, Adv Pikoli drew my attention to an article which had been published in the Rapport of 19 August 2007 and asked me to furnish him with a report dealing with the allegations in the newspaper. In this report it was *inter alia* stated that "*Ackermann het vroeër skriftelik opdrag gegee dat die polisie nog getuienis in die ondersoeke na die ANC-leiers moet versamel met die oog op moontlike vervolging*". I wanted to see my memorandum which was filed in the police docket pertaining to the landmines. I contacted Commissioner Jacobs telephonically and asked him to furnish me with my memorandum. Shortly thereafter, he faxed me a document, attached hereto as **Annexures "D1" and "D2"**. The document, Annexure "D2", purported to have been written on 26 June 2006 and addressed by myself to Dr Ramaite SC. I knew that I had not written any letter to Dr Ramaite SC on 26 June 2006 relating to this matter, let alone one in Afrikaans. However, I recognised a portion of the contents of the document as corresponding to the memorandum that I had compiled for Brits on the landmine docket in 2003. I recognised my signature at the bottom of page 2 of the document, but noted that a "6" – not in my handwriting – had been added to the date which was in my handwriting and located next to my signature. I therefore immediately realised that this document was a forgery and realised that the document purported to claim that in June 2006, a decision still had to be made against the ANC leadership, which is not in fact true. The document contained a reference number, namely "A15", which would be consistent with the set of memoranda which I compiled in 2003 and also the telephone number, namely "845 6432", which was in use in 2003 when the memoranda were compiled. At the bottom of page 2, the initials "tp" appeared, which were consistent with the initials of Mrs Pienaar who had typed the 2003 memoranda. Any document compiled by myself in June 2006 and addressed to Dr Ramaite SC would have been in English and would have been typed by Mrs Zwart on her computer and in an entirely different format and font. In any event, an internal document, compiled by myself and addressed to Dr Ramaite SC would not be in the lawful possession of SAPS. During a number of meetings with the TRC Working Group after June 2006, which were attended by Commissioner Jacobs,

representing SAPS, this matter was neither brought up, nor was a copy of the letter tabled. I was concerned that a forgery of such a nature should be in the possession of SAPS. As a consequence, I immediately reported the matter to the National Director. He instructed me to request Commissioner Jacobs to forward the original of Annexure "D2" to my office. I attach herewith as **Annexure "E"**, a copy of the letter which was faxed to Commissioner Jacobs, requesting him to have the document delivered to my office by no later than 16h00 on 20 August 2007. As of the date of this affidavit, the document has neither been delivered to my office, nor have I heard anything from Commissioner Jacobs.

15.

Since 2004, the National Commissioner has made unfounded allegations that the PCLU and I intend prosecuting the President and the ANC leadership for TRC matters. As set out above, the two Ministers of Justice & Constitutional Development, as well as members of the Office of the Presidency were persuaded that the allegations were of no merit and it was clear that the National Commissioner lacked any documentary proof to support his allegations. Annexure "D2" however clearly purports to provide the necessary proof under my own authentic signature. Annexure "D2" would provide a very plausible explanation for Adv Pikoli's decision to replace me with Dr Ramaite SC in the management of TRC cases. As a Special Director and a prosecutor of longstanding, I regarded my removal from the TRC matters in an extremely serious light, as it reflected adversely on my professional integrity. Furthermore, these false allegations over a period of time have caused me much anguish and pain, particularly in the circle in which I perform my duties.

16.

Annexure "D2" implies that after the decision was taken by Mr Ngcuka in 2004 not to investigate the ANC leadership, a senior member of the NPA wishes to re-institute such investigation. As such, Annexure "D2" impacts on the integrity of the NPA in its management of TRC cases and has the effect of attempting to obstruct the NPA in the performance of its duties in respect of such matters.

17.

In conclusion, it is disgusting that things like this can happen in a law enforcement agency of this country.

18.

I know and understand the contents of this declaration.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.

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**DEPONENT**

**Date: 21 August 2007**

**Time: 11h30**

**Place: Weavind Park**

I certify that the deponent has acknowledged that he knows and understands the contents of this declaration, which was sworn to before me and the deponent's signature was placed thereon in my presence at **Weavind Park** on **21 August 2007** at **11h30**.

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**COMMISSIONER OF OATHS**