



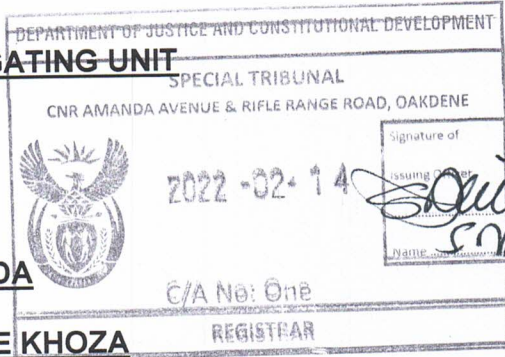
**IN THE SPECIAL TRIBUNAL ESTABLISHED IN TERMS OF SECTION 2 (1)
OF THE SPECIAL INVESTIGATIONS UNIT AND
SPECIAL TRIBUNALS ACT 74 OF 1996**

(REPUBLIC OF SOUTH AFRICA)

On the 14th day of February 2022
Before the Honourable Judge Modiba (in chambers)

CASE NO.: GP/01/2022

In the *Ex Parte* Application by:

<u>SPECIAL INVESTIGATING UNIT</u>		<u>Applicant</u>
and		
<u>INQABA YOKULINDA</u>		<u>First Respondent</u>
<u>AUDREY BUYISIWE KHOZA</u>		<u>Second Respondent</u>
<u>TSHEPO MONTSHO</u>		<u>Third Respondent</u>
<u>UNICUS SOLU(IT)ONS (PTY) LTD</u>		<u>Fourth Respondent</u>
<u>JABULANE SIBANDA</u>		<u>Fifth Respondent</u>
<u>TERENCE MAGOGODELA</u>		<u>Sixth Respondent</u>
<u>BOITUMELO DIUTLWILENG</u>		<u>Seventh Respondent</u>
<u>PHILEMON LETWABA</u>		<u>Eighth Respondent</u>
<u>ALECK SKHOSANA</u>		<u>Nineth Respondent</u>
<u>MARUBINI RAMATSEKISA</u>		<u>Tenth Respondent</u>

THABANG CHARLOTTE MAMPANE

Eleventh Respondent

GLORIA KHOZA

Twelfth Respondent

THE NATIONAL LOTTERIS COMMISSION

Thirteenth Respondent

ORDER

Having read and considered the papers file and having heard Counsel for the Applicant:

IT IS HEREBY ORDERED THAT:

1. Non-compliance with the rules of this Tribunal in respect of times and manner of service is condoned, and the matter is heard as one of urgency in terms of Rule 12 of the Special Tribunal Rules (Rule(s)). This application is heard in Chambers and without prior notice to the Respondents in terms of Rule 24 (1);
2. Pending the institution and final determination of the legal proceedings the Applicant will institute within 30 Court days of the date of this Order for the review and setting aside of the decision by the Thirteenth Respondent to award grant funding to the First Respondent, as well as the execution of the Order granted in the Review application, it is ordered in accordance with the provisions of Rule 24, in respect of all the assets of the First to Seventh Respondents listed in a Schedule marked "**Annexure A** " hereto ("the

preserved assets”).

- 2.1 the First to Seventh Respondents or any other person with knowledge of the Order sought, is prohibited from using, disposing, leasing, encumbering (including by granting rights of retention), transferring or dealing in any manner whatsoever (including entering into an agreement or undertaking to do any of the foregoing) with the preserved assets;
- 2.2 the First to Seventh Respondents (including the present members of the First Respondent and director/s and shareholder/s of Fourth Respondent) are directed to disclose the whereabouts of the preserved assets and any other realizable assets of the First to the Seventh Respondents acquired with the funds received from any of the cited respondents (the disclosable assets) to the representative(s) of the SIU (or the SIU’s duly appointed agent(s) including the sheriff), and to point out the disclosable assets immediately on service of this Order;
- 2.3 the preserved and disclosable assets are subject to this Order. Whoever is in possession of these assets shall surrender them to the curator *bonis* appointed in terms of paragraph 4 of this Order, upon which the assets are subject to the *curator bonis’s* control and administration in terms of this Order.
- 2.4 The disclosable assets extend to:

2.4.1 all other assets held by the First to Seventh Respondents at the time of the granting of this Order or subsequently, whether in their respective names or not, including all property held for or on behalf of the First to Seventh Respondents by any person or entity and further including the shareholding or members interest of the First to Seventh Respondents in any company acquired from the funds the Thirteenth Respondent paid to the First Respondent;

2.4.2 any asset held by any legal representative on behalf of the First to Seventh Respondents, in trust or in any other way whether received from the First to Seventh Respondents or a third party on behalf of the First to Seventh Respondents before or after the granting of this Order acquired from the funds the Thirteenth respondent paid to the First Respondent;

2.4.3 all assets that would be disclosable assets, if transferred to the First to Seventh Respondents or to any third party on behalf of the First to Seventh Respondents, at any time after the granting of this Order acquired from the funds the Thirteenth Respondent paid to the First Respondent;

2.5 Provided that the following assets, although bound to be disclosable, are excluded from the terms of this Order:

2.5.1 Assets referred to in paragraph 2.4.3 which have been specified and its source revealed in relation to which the curator *bonis* appointed under this Order (the curator *bonis*) is satisfied by evidence under oath that the assets are not disclosable property;

2.6 Provided further that the following assets, although bound to be disclosable and preserved, are excluded from the provisions of the Order:

2.6.1 such clothing, bedding, ordinary household furniture, kitchen and laundry appliances and utensils and other articles (other than luxuries) as the curator bonis may consider to be reasonably needed for the day to day use of the Respondents;

2.6.2 provided further that, although the immovable property mentioned in **"Annexure A"** is subject to this Order, the Order shall, not include a prohibition on the use of such immovable property.

3. This Order shall operate with immediate effect until the final determination of the Review Application and the execution of the Order granted in the Review application, subject to the following:

3.1 the Order made in paragraph 2 shall not operate to prevent:

3.1.1 the Applicant from executing its mandate(s) (including the right to implement execution steps or seek forfeiture) in respect of the preserved and disclosable assets;

3.1.2 the First to Seventh Respondents from being ordered to release such preserved and disclosable assets that are declared forfeited and/or due to the Applicant and/or the Thirteenth Respondent as may be determined by this Tribunal.

4. **APPOINTMENT AND POWERS OF THE CURATOR BONIS – RULE 27 OF THE TRIBUNAL RULES**

4.1 **AVIWE N NDYAMARA** of **TSHWANE TRUST CO. (PTY) LTD** (Registration No. 1973/011373/07) is appointed as the curator *bonis* in whom the rights, title and interest in all the realisable and disclosable assets of the First to Seventh Respondents that are preserved in terms of this Order will immediately vest.

4.2 The curator *bonis* is authorised to immediately in accordance with the provisions of Rule 27 of the Tribunal Rules and this order and to forthwith:

4.2.1 assume control of the preserved and disclosable assets and take them into his custody;

4.2.2 take care of the preserved and disclosable assets;

4.2.3 administer the preserved and disclosable assets;

4.2.4 do any necessary act for that purpose; and

4.2.5 where any of the preserved and disclosable assets is a business or undertaking, carry on, with due regard to any law which may

be applicable, the said business or undertaking.

4.3 No-one, except the curator *bonis* may deal with the preserved and disclosable assets, subject to the conditions and exceptions contained in this Order, save with the prior written consent of the Applicant, which consent may not be unreasonably withheld;

5. **MOTOR VEHICLES**

5.1 Within seven days of the granting of this order, all motor vehicles belonging to the First to Seventh Respondents which are preserved and/or disclosable assets must be delivered to the curator *bonis*. Pending such delivery, such motor vehicles may be used by the person presently entitled to use such vehicle, provided that before any such use, the curator *bonis* is satisfied, by presentation to him of such proof as he may reasonably require that the vehicle is properly insured in favour of the First to Seventh Respondents and that the vehicle will only be used in terms of the restrictions of such insurance policy.

5.2 In the event that such motor vehicle is not insured, the curator *bonis* may, at the cost of such Respondent, obtain such insurance, after which the said vehicle may be utilised as provided for above.

6. **SALE OF ASSETS**

The curator *bonis* may not proceed with the disposal of preserved and disclosable assets unless the Tribunal or any competent court of law entitles the Applicant to instruct the curator *bonis* to do so, or the operation of the law so permits.

7. **TRANSFER OF POWERS OF CURATOR *BONIS* AND TERMINATION THEREOF**

7.1 The powers of the curator *bonis* will continue, subject to the provisions of this Order, for as long as it is required to finalize the application for the review and setting aside of the Thirteenth Respondent's decision to award a funding grant to the First Respondent as well as and the execution of the Order granted in the Review Application.

7.2 The powers of the curator *bonis* may be amended or terminated on application by any interested party on application to this Honourable Tribunal.

8. **THE COSTS OF CURATOR *BONIS* IN THE IMPLEMENTATION OF THIS ORDER**

8.1 The costs of the curator *bonis*, occasioned by and incurred in the

implementation of this Order, are to be paid by the First to Seventh Respondents jointly and severally. Such costs to include: -

8.1.1 Costs incurred by the curator *bonis's* in respect of services rendered by him in the execution and implementation of this Order;

8.1.2 The curator *bonis'* fees; and

8.1.3 Costs incurred by the curator *bonis* for monies disbursed by him in order to obtain support and advisory services in his capacity as curator *bonis*, in the execution and implementation of this Order.

9. **LIABILITY OF THE CURATOR *BONIS***

9.1 The curator *bonis* will be liable for any damages caused by him as a result of acting *ultra vires* or unreasonably in executing his duties in terms of this Order.

9.2 The Applicant shall ensure that any damage suffered as a result of the curator *bonis* not having put up security for compliance with his duties in terms of this Order, is mitigated.

10. **COSTS OF THIS APPLICATION**

The costs of this application are reserved.

11. **SERVICE OF ORDER AND APPLICATION**

11.1 This Order, together with a copy of the application, must be served upon the Respondents as soon as the curator *bonis* is satisfied that service will not frustrate the proper execution of the Order.

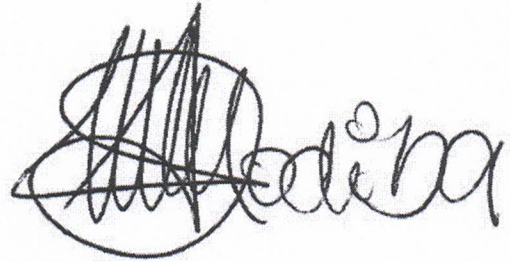
11.2 The Applicant may approach this Tribunal on supplemented papers for a variation or extension of the Order.

12. **NOTICE OF OPPOSITION AND FILING OF FURTHER AFFIDAVITS**

12.1 If any of the Respondents, or any other person affected by this Order, wishes to have the Order reconsidered, he, she or it shall on notice to the other parties, enrol the Order for reconsideration in terms of Rule 12(9). Thereafter, the Clerk of the Presiding Tribunal member shall convene a case management meeting to determine the further conduct of the application.

12.2 Any person with a substantial interest in this *ex parte* application may, in terms of Rule 24(7) read with Rule 10(9), deliver a notice to

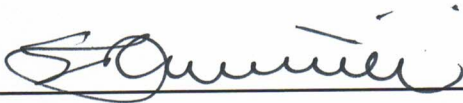
oppose setting out the nature of the interest and the grounds on which he, she or it desires to be heard. Thereafter, the Clerk of the Presiding Tribunal member shall convene a case management meeting to determine the further conduct of the application.



JUDGE L.T. MODIBA

MEMBER OF THE SPECIAL TRIBUNAL

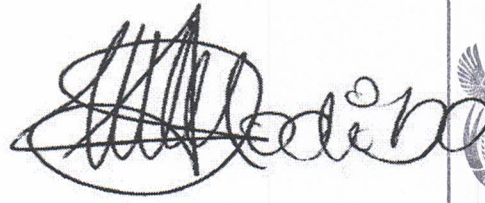
THE REGISTRAR OF THE SPECIAL TRIBUNAL




DATE:



DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	
SPECIAL TRIBUNAL	
CNR AMANDA AVENUE & RIFLE RANGE ROAD, OAKDENE	
	signature of Issuing Officer  S. M. N. A.
2022-02-14	
E/A No: 01e	
REGISTRAR	



DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	
SPECIAL TRIBUNAL	
CNR AMANDA AVENUE & RIFLE RANGE ROAD, OAKDENE	
	Signature of Issuing Officer <i>L.T. Modiba</i> Name: L.T. Modiba
2022-02-14	
C/A No: One	
REGISTRAR	

Judge L.T. Modiba, 14 February 2022

ANNEXURE A

SCHEDULE OF ASSETS: IMMOVABLE PROPERTY AND MOTOR VEHICLES

1. **TSHIFHIWA TERENCE MAGOGODELA**


ERF 1618, ZWARTKOP EXT 8 TOWNSHIP, REGISTRATION DIVISION JR,
PROVINCE GAUTENG, MEASURING 1172 SQUARE METERS.

2. **JABULANI SIBANDA**

- 2.1 Honda Jazz, Registration Number TPT 581 GP, Black in colour and ownership registered in May 2019;
- 2.2 Mercedes Benz AMG E63, Registration No. ZHJ 313 GP, Silver in colour and ownership registered 19 March 2019; and
- 2.3 Mercedes Benz CLK AMG 63, Registration No. VCW 244 GP Blue in colour and ownership registered on 24 April 2018.

3. **BOITUMELO DIUTLWILENG**

AUDI AU 335 A3, Cabrio, Registration No. BY 97 FH GP Red in colour and ownership registered 13 April 2018.

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	
SPECIAL TRIBUNAL	
CNR AMANDA AVENUE & RIFLE RANGE ROAD, OAKDENE	
	2022-02-14
	Signature of S. Miliq
	Name S. Miliq
C/A No: One	
REGISTRAR	