

**IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, PRETORIA)**

CASE NO: 16996/21

In the matter between:

**MUTHUHADINI MADZIVHANDILA**

Applicant

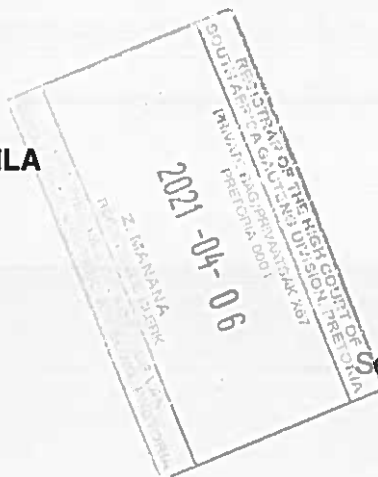
and

**MATTHEW CUTHBERT**

First Respondent

**DEMOCRATIC ALLIANCE**

Second Respondent



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**NOTICE OF MOTION**

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**TAKE NOTICE THAT** the abovenamed applicant intends to make an application to this Honourable Court on **Tuesday, 4 May 2021**, for an order in the following terms:

- (1) The forms and procedures provided for in the Uniform Rules of Court are hereby dispensed with and this matter is heard as one of urgency in terms of Rule 6(12)(a).
- (2) It is declared that the applicant's right to dignity, in particular his right to reputation and to a good name, has been unlawfully infringed by the first and second respondents who, on 12 March 2021, published a defamatory statement concerning him on the internet and social media, to the effect that he *"was the director of a non-profit company which received R900 000*

*from the NLC and that it needed to be determined whether or not he had declared this prior to his appointment to the board.” (herein referred to as “the offending statement”).*

- (3) The first and second respondents are hereby interdicted from continuing to publish, and/or republishing, the offending statement, or any statement that repeats or implies some or all of the allegations therein.
- (4) The first and second respondents are directed, jointly and severally, to pay the applicant’s costs of the application, including the costs of two counsel, the one paying, the other to be absolved.

**TAKE NOTICE FURTHER** that the affidavit of the applicant, **MUTHUHADINI ALFRED MADZIVHANDILA**, will be used in support of the application.

**TAKE NOTICE FURTHER** that the applicant has appointed the address of his attorneys, set out below, as the address at which he will accept service of notices and other process in these proceedings.

**TAKE NOTICE FURTHER** that if either of the respondents intends to oppose this application it, he or it is required:

- (a) after receipt of this notice of motion, to deliver notice to the applicant that he or it intends to oppose the application, not later than **Tuesday, 13 April 2021**, and in such notice to appoint an address within fifteen

kilometres of the office of the Registrar at which he or it will accept notice and service of all process in these proceedings; and

- (b) after delivery of his or its notice to oppose the application, deliver his or its answering affidavit, if any, in answer to the allegations made by the applicant, not later than **Wednesday, 21 April 2021**.
- (c) Should either or both of the respondents file their answering affidavit(s) within the period called for in paragraph (b) above, the applicant shall deliver his replying affidavit, if any, by **Wednesday, 28 April 2021**.

**Dated at Pretoria on this the 6<sup>th</sup> day of April 2021.**



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**DITSELA INCORPORATED ATTORNEYS  
APPLICANT'S ATTORNEYS  
UNIT 3A, GUILD HOUSE  
239 BRONKHORST STREET  
NIEUW MUCKLENEUK  
PRETORIA, 0181  
EMAIL: [jones@ditsela.com](mailto:jones@ditsela.com)  
Tel: 012 051 9953  
Ref: J. Ditsela/M00215**

**TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT  
PRETORIA**

**AND TO: MATTHEW CUTHBERT  
FIRST RESPONDENT  
MARKS BUILDING (2ND & 3RD FLOOR)  
PARLIAMENT  
PLEIN STREET  
CAPE TOWN  
EMAIL: [mj\\_cuthbert@yahoo.com](mailto:mj_cuthbert@yahoo.com)  
CARE OF: MINDE SCHAPIRO & SMITH INC.**

TYGER VALLEY OFFICE PARK  
BUILDING NUMBER 2  
CNR WILLIE VAN SCHOOR & OLD OAK ROADS  
BELLVILLE  
EMAIL: [elzanne@mindes.co.za](mailto:elzanne@mindes.co.za)

**AND TO:** **DEMOCRATIC ALLIANCE**  
**SECOND RESPONDENT**  
MARKS BUILDING (2ND & 3RD FLOOR)  
PARLIAMENT  
PLEIN STREET  
CAPE TOWN  
EMAIL: [leader@da.org.za](mailto:leader@da.org.za) / [bonganimin@da.org.za](mailto:bonganimin@da.org.za)  
**CARE OF: MINDE SCHAPIRO & SMITH INC.**  
TYGER VALLEY OFFICE PARK  
BUILDING NUMBER 2  
CNR WILLIE VAN SCHOOR & OLD OAK ROADS  
BELLVILLE  
EMAIL: [elzanne@mindes.co.za](mailto:elzanne@mindes.co.za)

W: 595

**IN THE HIGH COURT OF SOUTH AFRICA  
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In the matter between:

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Applicant

and

**MATTHEW CUTHBERT**

First Respondent

**DEMOCRATIC ALLIANCE**

Second Respondent

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**FOUNDING AFFIDAVIT**

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I, the undersigned,

**MUTHUHADINI ALFRED MADZIVHANDILA**

do hereby make oath and state that:

- 1 I am the applicant in this application. I am an adult male businessman and non-executive board member of the National Lotteries Commission ("NLC"), established in terms of the Lotteries Act 57 of 1997. My place of residence is situated at 894 Patryshond Street, Garsfontein, Pretoria East.
- 2 The facts contained in this affidavit are, save where the context indicates otherwise, within my personal knowledge and are to the best of my belief both true and correct.

*M.A.M.*

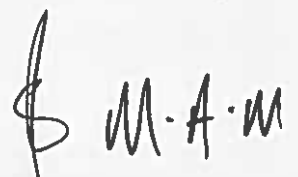
- 3 Where I make submissions of a legal nature, I do so on the advice of my legal representatives, which advice I believe to be correct.

**The nature of this application**

- 4 This is an urgent application for a declaration that my right to dignity, and in particular my right to reputation and to a good name, has been unlawfully infringed by the respondents who, on 12 March 2021, published defamatory statements concerning me on the internet and social media, across South Africa and internationally.
- 5 In this application, I also seek a final interdict against the respondents so that they cease their unlawful defamation of me.

**The respondents**

- 6 The first respondent is **MATTHEW CUTHBERT**, an adult male politician and a member of the National Assembly of the Parliament of the Republic of South Africa. The first respondent is a member of the second respondent, and serves as the Democratic Alliance's Shadow Deputy Minister of Trade, Industry and Competition. His work address is at the Portfolio Committee of Trade, Industry and Competition, situated on Upper Ground Floor, 90 Plein Street, Cape Town.
- 7 The second respondent is the **DEMOCRATIC ALLIANCE**, a political party and voluntary association capable of suing and being sued in its own name

 M.A.M.

("DA"). The DA is registered with the Independent Electoral Commission in terms of section 15 and 15A of the Electoral Commission Act 51 of 1996, read with section 26 of the Electoral Commission Act 73 of 1998. The DA's Federal Head Office is situated at Theba Hosken House, 16 Mills Street, Gardens, Cape Town, and its Gauteng Provincial Office being situated at Nkululeko House, 21 Ernest Oppenheimer Avenue, Bruma, Johannesburg.

### **Jurisdiction**

8 I am advised that this Court has jurisdiction to determine this matter by virtue of the fact that the defamatory material concerning me was published on the internet, throughout South Africa and beyond, including within the area of jurisdiction of this Court.

### **The defamation**

9 On 12 March 2021, the first respondent, acting personally and on behalf of the second respondent, published a statement on the internet and on social media entitled "*DA rejects ANC's recommendation for NLC chairperson*", a copy of which ("the DA statement") is annexed hereto, marked "MAM1".

10 In particular, the DA statement was published:

 M.A.M.

- 10.1 on the website of the DA on 12 March 2021;<sup>1</sup>
- 10.2 on the Twitter account of the first respondent (@TheMatCuthbert) on 12 March 2021, by means of a link to the DA statement. A copy of the tweet, to the 660 plus Twitter followers of the first respondent, is annexed hereto, marked "MAM2". A copy of the Twitter page of the first respondent is also annexed hereto, marked "MAM3"; and
- 10.3 on the Twitter account of the second respondent (@Our\_DA) on 12 March 2021, by means of a retweet of the first respondent's tweet, to its more than 646 000 Twitter followers. A copy of the DA's retweet is annexed hereto, marked "MAM4". A copy of the DA's Twitter page is also annexed hereto, marked "MAM5".
- 11 The DA statement contains the following statement of and concerning me ("the offending statement"): *"He was the director of a non-profit company which received R900 000 from the NLC and that it needed to be determined whether or not he had declared this prior to his appointment to the board."*
- 12 In the context of the DA statement as a whole, the offending statement was intended to mean, and was understood by the ordinary reader to mean, that I was party, through a non-profit company of which I was the director, to the

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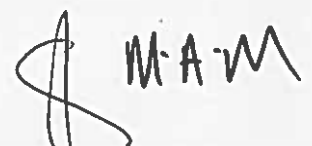
<sup>1</sup> <https://content.voteda.org/blog/2021/03/da-rejects-ancs-recommendation-for-nlc-chairperson/>

§ M.A.M



unlawful, secret and corrupt receipt of R900 000 from the NLC; and not only that, I was also likely to have failed to declare my role in this unlawful, secret and corrupt transaction prior to my appointment to the NLC board, meaning that I had probably deceived those who had appointed me.

- 13 In addition, the offending statement, in the context of the DA statement as a whole, was intended, and understood by the ordinary reader, to mean that my unlawful, secret and corrupt conduct went beyond and exceeded that of the other members of the NLC Board.
- 14 I am advised that the offending statement is therefore *per se* defamatory of me. The offending statement, in the context of the DA statement as a whole, also contains the additional sting that I am corrupt, the recipient of unlawfully obtained funds from the NLC, a corrupting influence in the NLC, and/or one who has sought to deceive and prejudice the NLC through my directorship of an unnamed non-profit company. Furthermore, there is also the additional sting that I am incompetent and unable to serve as chairperson of the NLC.
- 15 I deny these allegations completely. I am not corrupt or incompetent. I have served on the board of the NLC with integrity at all times. In particular, I have never been a director of a non-profit company that received R900 000 from the NLC, prior to my appointment to the Board. I have also not been involved in any similar conduct, whether before or after my appointment to the board. The offending statement is therefore manifestly false.



16 For completeness, I mention two non-profit entities with which I have been involved. Neither of these entities received any funds from the NLC whilst I was on their respective boards of directors.

16.1 The first is the Global Road Safety Partnership (South Africa), a non-governmental organisation with international links ("GRSP"). I was a member of the board of the GRSP from 2008 to 2013. At the time, I was employed by the Road Traffic Management Corporation ("RTMC"). I represented the RTMC on the board of the GRSP. I was not on the Exco of the GRSP nor its finance committee. My area of involvement was with the road safety campaign. I resigned from the board of the GRSP on 28 February 2013 when my employment with the RTMC came to an end.

16.2 The second entity is the Shudufhadzo Foundation, a non-profit organisation that was started when Ms Shudufhadzo Musida, who hails from Vhembe in Limpopo, began her quest to be Miss South Africa. I was appointed a director of the Foundation with effect from 1 February 2021.

**The relevant facts**

17 I am a board member of the NLC. I was appointed to the board of the NLC with effect from 1 April 2017. I am presently shortlisted for appointment as chairperson of the NLC.

 M.A.M

- 18 On 9 March 2021 I was invited for an interview for the position of chairperson of the NLC, being one of the candidates shortlisted for the position.
- 19 Following the interview process, on 12 March 2021, the Portfolio Committee on Trade, Industry and Competition recommended that the House request the Minister of Trade, Industry and Competition to consider three candidates for the position of the Chairperson of the board of the NLC. I was one of the three candidates recommended by the Portfolio Committee.
- 20 Unhappy with the decision of the Portfolio Committee, the respondents took their unhappiness onto the internet and Twitter, publishing the DA statement on 12 March 2021, thereby tarnishing my reputation.
- 21 On 16 March 2021, Ditsela Incorporated Attorneys (my attorneys of record) wrote to the first respondent on my behalf. I confirm that the contents of the letter are true and correct, insofar as they refer to me. A copy of the letter is annexed hereto, marked "MAM6".
- 22 It was expressly pointed out in the letter that the offending statement is false. The first respondent was therefore requested to issue a written retraction of the statement, and to apologise to me for having defamed me.
- 23 The letter was emailed to [leader@da.org.za](mailto:leader@da.org.za). A copy of the response that was received is annexed hereto, marked "MAM7". The first respondent did not respond to this letter.

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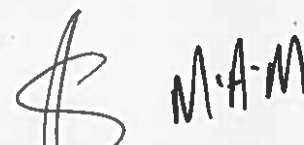
- 24 On 25 March 2021, my attorneys wrote to the first respondent and to the second respondent. This letter was emailed to three different addresses: [leader@da.org.za](mailto:leader@da.org.za), [mj\\_cuthbert@yahoo.com](mailto:mj_cuthbert@yahoo.com) and [bonganimin@da.org.za](mailto:bonganimin@da.org.za). A copy of the letter is annexed hereto, marked "MAM8".
- 25 In the letter, the first and second respondents were requested to provide the following details: i) the name of the non-profit company of which I am alleged to be the director; ii) when the R900 000 was allegedly paid to the non-profit company; and iii) the details of the banking account into which the R900 000 was allegedly paid. A copy of the letter of 16 March 2021 was attached to the letter of 25 March 2021.
- 26 Minde Schapiro & Smith, the respondents' attorneys of record, responded to the letter of 25 March 2021. A copy of the response is annexed hereto, marked "MAM9".
- 27 The respondents refused to provide the details sought in the letter of 25 March 2021, and made it clear that they would not retract the DA statement or apologise to me for having defamed me. Indeed, the respondents appear to claim that they are protected by parliamentary privilege, and that they are free to continue to defame me. I am advised that no such privilege attaches to the DA statement, as published.
- 28 The defamation of me therefore continues, for as long as the DA statement remains on the website of the DA and on social media.



M.A.M

**Consequences of the defamation**

- 29 Since the DA statement is defamatory of me, I am advised that in our law it is presumed, until the contrary is proved, that the statement was published unlawfully (or wrongfully) and with the intention to injure me and damage my reputation.
- 30 I gave the respondents the opportunity to retract and apologise, or to state the facts upon which they rely for the offending statement. They maintain that the facts are true, but they refuse to state those facts. At the same time, they state that they will not cease defaming me.
- 31 My reputation and good name are an integral part of my dignity as a human being. I have varied interests and passions. I am particularly concerned with the community in which I live.
- 31.1 I am a business man with experience in community development. I have also sought to be a community builder in my personal capacity. I have therefore assumed responsibility for sponsoring the education of four children in Tshilaphala Village, Vuwani, Limpopo. I belong to the Apostolic Faith Mission Church. As stated above, I am a director of the Shudufhadzo Foundation.
- 31.2 I am the managing director and owner of Tshianzi Development (Pty) Ltd, which is responsible for training and capacity building. I am also the managing director of Vice Grip Securities (Pty) Ltd, and TTM&A


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Sand and Crushed Stones Suppliers (Pty) Ltd. As stated above, I am also a non-executive board member of the NLC.

31.3 I hold the following qualifications: PhD in African Studies; Master's Degree in Development Studies; Honours Degree in Psychology; BA Degree in Psychology. I have also acquired: a Diploma in Teaching; a Diploma in Public Private Sector Governance for Directors; an Advance Diploma in Transport and Traffic Management; an Advance Certificate in Fraud Prevention; a Certificate in Rural Development; an Advance Diploma in Labour Relations; and a Diploma in Executive Management.

32 I have been approached by many people since the publication of the DA statement, asking if there is any truth to the allegations, in particular those that are made in the offending statement. I list some of these interactions below.

32.1 I am a divorced man who is soon to re-marry. My partner (whom I hope to marry) is a woman who occupies a managerial position. She has an outstanding professional reputation. When she read the DA statement that portrays me as a corrupt person associated with the unlawful receipt of R900 000 from the NLC, by a non-profit company of which I am alleged to be the director, and alleging that I had failed to disclose this prior to my appointment to the board, she threatened to terminate our relationship.

 M-A-M

- 32.2 I am also the father of six children. Four of my children are working in different sectors. When they read the statement, they approached me with disappointment, since they know that I always put emphasis on integrity and honesty.
- 32.3 I had to explain to my partner and to my children that the statement is false, for them to settle down, but they are struggling to explain this to their friends and colleagues.
- 32.4 My extended family held a meeting with me on 14 March 2021 to try to understand why my name is trending on money corruption. Again I had to explain that the allegations are false.
- 32.5 As a result of the allegations, in particular the offending statement, I have become completely isolated from the public. My interaction with friends and family has become extremely difficult. I find it difficult to socialise again and have had to seek refuge in my house and in my office. The DA statement and the two tweets of the respondents have brought social stigma and shame to my name, my reputation and my integrity.
- 33 I have lost greatly from the respondents' defamation of me, both personally and professionally. My family is stressed as a result. Potential business deals, contracts and other opportunities have either not materialised or have not come my way since 12 March 2021. Every time an opportunity arises,

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the potential partners quote the offending statement and the tweets. Despite my assurances that the offending statement is false, the opportunity is lost.

- 34 The DA statement has injured my reputation and good name in the eyes of the members of the public who have read the statement. Accordingly, my right to dignity, guaranteed by section 10 of the Constitution of the Republic of South Africa, has been violated, and continues to be violated for as long as the statement remains on the internet.
- 35 The DA statement, in particular the offending statement that is so personal an attack on me, also has the potential to negatively affect my reputation in the eyes of the Minister of Trade, Industry and Competition ("the Minister") and the members of the National Assembly, regarding their consideration of me for the position of chairperson of the NLC. The statement is evidently calculated to influence the process of appointment and to turn the Minister and the members of the National Assembly against me.

**Declaration**

- 36 I respectfully submit that I am entitled to an order declaring that my right to dignity, in particular my right to reputation and to a good name, has been unlawfully infringed by the publication of the defamatory DA statement by the first and second respondents.





**Final Interdict**

37 I further submit that the respondents have published defamatory material concerning me, as set out above. In their attorneys' letter of 29 March 2021, the respondents raise four defences: i) that the respondents repeated "*the concerns*" raised by OUTA; ii) that the publication of the statement was true and in the public interest; iii) that the statement constitutes fair comment on facts that are true or substantially true; and iv) that the respondents are protected from liability by the provisions of Act 4 of 2004. I am advised that each of the four defences is without merit, for the reasons set out below:

37.1 First, a person who repeats the defamatory statements of another is no less liable for the defamation. It is no defence to argue that another person is the source of the defamation.

37.2 Second, the offending statement is manifestly false. The respondents were given the opportunity to state the true facts upon which they rely but they refused to furnish any particular facts. The only reasonable inference to be drawn is that the respondents have no facts upon which to support the offending statement.

37.3 Third, the offending statement is a statement of fact, not opinion. The defence of fair comment is therefore not available. In any event, for the reasons set out above, the respondents have no facts upon which to support the offending statement.

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37.4 Fourth, the offending statement was published outside Parliament.

It follows therefore that the provisions of Act 4 of 2004 do not apply.

38 I submit that I have established a clear right to a final interdict against the respondents so that they cease their unlawful defamation of me. I have already been injured in my reputation by the conduct of the respondents. The defamation continues for as long as the DA statement remains online. In light of the respondents' defiant rejection of my right to reputation, their refusal to retract the statement, and their refusal to apologise to me, there is no suitable alternative remedy for me other than a final interdict. An action for damages will not provide me with similar protection against further injury to my reputation. By the time an action for damages is finally determined, which could take several months, if not years, I will have suffered irreparable damage to my reputation.

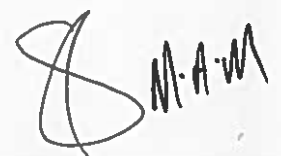
39 I therefore respectfully submit that I am entitled to a final interdict, as sought in the notice of motion to which this affidavit is annexed.

#### Urgency

40 The Minister is due to announce his decision of the person to be appointed chairperson of the NLC as soon as he receives ratification of the proposed names from the National Assembly. This could be in a few weeks.

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- 41 The application is therefore urgent in the sense that the Minister ought to be able to make his decision without the offending statement hanging over my name.
- 42 In addition, for as long as the DA statement remains on the website of the second respondent, and on the Twitter pages of the respondents, it remains accessible to anyone with access to the internet, thus further damaging my reputation. This means that I am likely to lose out on business opportunities with people and/or institutions who have read the DA statement and formed the view that I am corrupt. In all likelihood, I will never know what business and other opportunities have been lost as a result of the publication of the DA statement. It is urgent that the ongoing defamation be brought to an end.
- 43 However, the ongoing damage will not be limited to business opportunities. As a human being and a father, it is intolerable that my reputation and dignity be relentlessly damaged in this way. The distress caused to my family and me is immense. It is similarly urgent that this damage be contained.
- 44 The urgency is not self-created and there has been no delay in bringing this application for the following reasons:
- 44.1 Following publication of the DA statement by the respondents on 12 March 2021, I became aware of it on 13 March 2021 when my ex-wife called me to inform me that she was getting nasty comments

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from work about how corrupt I am. Despite our divorce, she called me to pay attention to the DA statement.

- 44.2 On 16 March 2021, I secured a consultation with my attorneys, and received legal advice on how to proceed.
- 44.3 On 16 March 2021 my attorneys sent a letter to the first respondent ("MAM6"), requesting the first respondent to retract the statement and to apologise to me within 48 hours.
- 44.4 When the first respondent failed to respond to my attorneys' letter of 16 March 2021, my attorneys addressed a follow up letter on 25 March 2021 ("MAM8"), seeking the facts upon which the offending statement is based.
- 44.5 On 29 March 2021, the respondents' attorneys replied to the letters of 16 March 2021 and 25 March 2021 ("MAM9"). They refused to furnish any details, stating that the respondents would not adhere to my request, and would resist any claim for damages.
- 44.6 Following receipt of the letter of 29 March 2021, I instructed my attorneys to brief counsel to draft this application. Counsel acted as expeditiously as possible and attended to drafting the application. My attorneys issued the application immediately thereafter.

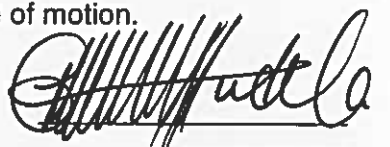
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45 In setting the time frames for the filing of answering affidavits by the respondents, my attorneys have sought to give the respondents as much time as possible, within the constraints of this matter.

**Conclusion**

46 I respectfully submit that I have made out a case for the relief sought in the notice of motion.

47 I therefore seek an order as set out in the notice of motion.



**DEPONENT**

Thus signed and sworn to before me at Pretoria on this the 06<sup>th</sup> day of April 2021 the deponent having acknowledged that he knows and understands the contents of this affidavit, that he has no objection to taking the prescribed oath and that he considers the oath binding on his conscience.



**COMMISSIONER OF OATHS**

**FULL NAMES:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CAPACITY:** \_\_\_\_\_

**SYDNEY HAKEEM THABO DIPELA  
COMMISSIONER OF OATHS  
Practising Attorney Gauteng  
Gildenhuys Malatji Inc.  
164 Totius Road, Groenkloof  
Pretoria, 0001**

"MAMI"

## DA rejects ANC's recommendation for NLC chairperson

Issued by Mat Cuthbert MP – DA Shadow Deputy Minister of Trade, Industry and Competition

12 Mar 2021 in News

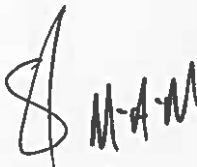
At a meeting of the Portfolio Committee on Trade, Industry and Competition on the 13th of March 2021, the African National Congress (ANC) chose to actively disregard a submission by The Organisation Undoing Tax Abuse (OUTA) which cited serious concerns about the candidacy of Dr Muthuhadini Madzivhandila for National Lotteries Commission Chairperson (NLC).

In their report OUTA noted that *"Dr Madzivhandila has been serving on the board of the NLC from 1 April 2017 to present. This is the same board that has observed allegations of corruption and maladministration pertaining to the NLC proactive funding model"*.

The cited the following concerns:

- He is subject to several criminal complaints by OUTA and other organisations as a result of his membership of the board.
- The Special Investigative Unit's (SIU) investigation into serious maladministration and unlawful appropriation of expenditure of public money and property by NLC coincides with his tenure on the board.
- He was the director of a non-profit company which received R900 000 from the NLC and that it needed to be determined whether or not he had declared this prior to his appointment to the board.
- He failed to address alleged irregularities at the NLC despite holding a senior position in the organisation.
- The appointment of Dr. Madzivhandila as the chairperson of the NLC "would be a disservice not only to the NLC itself, but to the public"

In addition, the DA laid criminal charges against the entire NLC board for failing to release their list of grant beneficiaries for the 2018-2019 financial year and the Covid-19 relief fund, of which Dr. Madzivhandila was a member.

 M-A-M

It is particularly concerning, that he held the position of Human Capital, Social and Ethics Chairperson and served as a member of the governance, audit and risk and regulatory committees yet he expects the public to believe he had no hand in covering up alleged corruption at the NLC.

Despite these very serious allegations, the ANC chose to stick with their man. Insiders have informed the DA that this is due to an intensive lobbying operation conducted with ANC members of the portfolio committee by NLC.

Despite having been impressed by the interviews of other two shortlisted candidates, Mr. Terry Tselane and Dr. Barney Pityana, the DA has chosen to reject the committee's recommendation of three names to Minister Ebrahim Patel on account of Dr. Madzivhandila's inclusion on the shortlist.

We now urge Minister Patel to make the right choice and appoint either Mr. Tselane or Dr. Pityana in the interests of fixing what is so glaringly wrong at the NLC.

Failure to do so will only end in more misery for the most vulnerable in our society, who have been deprived of much-needed funding by the Lottery Looters.

**Local Government Elections are coming up in 2021! Visit [check.da.org.za](http://check.da.org.za) to check your voter registration status.**



"MAM2"



Mat Cuthbert MP  
@TheMatCuthbert

@Our\_DA rejects ANC's  
recommendation for NLC  
chairperson

cc @OUTASA

### DA rejects ANC's recommendation for NLC chairperson

by **Mat Cuthbert MP** - DA Shadow Deputy Minister of Trade, Industry and Competition

Date: 12 March 2021  
Release: Immediate

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- The Special Investigative Unit's (SIU) investigation into serious maladministration and unlawful appropriation of expenditure of public money and property by NLC coincides with his tenure on the board.
- He was the director of a non-profit company which received R900 000 from the NLC and that it needed to be determined whether or not he had declared this prior to his appointment to the board.
- He failed to address alleged irregularities at the NLC despite holding a senior position in the organisation.
- The appointment of Dr Madzvhandila as the chairperson of the NLC "would be a disservice not only to the NLC itself, but to the public"

In addition, the DA laid criminal charges against the entire NLC board for failing to release their list of grant beneficiaries for the 2018-2019 financial year and the Covid-19 relief fund, of which Dr Madzvhandila was a member.

Tweet your reply



  
M-A-M



09:55



CC @WUUTASHA

### DA rejects ANC's recommendation for NLC chairperson

by **Mat Cuthbert MP** - DA Shadow Deputy Minister of Trade, Industry and Competition

Date: 12 March 2021  
Release: Immediate

At a meeting of the Portfolio Committee on Trade, Industry and Competition on the 13th of March 2021, the African National Congress (ANC) chose to actively disregard a submission by The Organisation Undoing Tax Abuse (OUTA) which cited serious concerns about the candidacy of Dr Muthuhedini Madzivhandila for National Lotteries Commission Chairperson (NLC).

In their report OUTA noted that "Dr Madzivhandila has been serving on the board of the NLC from 1 April 2017 to present. This is the same board that has observed allegations of corruption and maladministration pertaining to the NLC proactive funding model".

The cited the following concerns:

- He is subject to several criminal complaints by OUTA and other organisations as a result of his membership of the board.
- The Special Investigative Unit's (SIU) investigation into serious maladministration and unlawful appropriation of expenditure of public money and property by NLC coincides with his tenure on the board.
- He was the director of a non-profit company which received R900 000 from the NLC and that it needed to be determined whether or not he had declared this prior to his appointment to the board.
- He failed to address alleged irregularities at the NLC despite holding a senior position in the organisation.
- The appointment of Dr. Madzivhandila as the chairperson of the NLC "would be a disservice not only to the NLC itself, but to the public"

In addition, the DA laid criminal charges against the entire NLC board for failing to release their list of grant beneficiaries for the 2018-2019 financial year and the Covid-19 relief fund, of which Dr. Madzivhandila was a member

It is particularly concerning, that he held the position of Human Capital, Social and Ethics Chairperson and served as a member of the governance, audit and risk and regulatory committees yet he expects the public to believe he had no hand in covering up alleged corruption at the NLC.

Despite these very serious allegations, the ANC chose to stick with their man. Insiders have informed the DA that this is due to an intensive lobbying operation conducted with ANC members of the portfolio committee by NLC.

Despite having been impressed by the interviews of other two shortlisted candidates, Mr Terry Tselane and Dr. Barney Pitso, the DA has chosen to reject the committee's recommendation of three names to Minister Ebrahim Patel on account of Dr. Madzivhandila's inclusion on the shortlist.

We now urge Minister Patel to make the right choice and appoint either Mr Tselane or Dr. Pitso in the interests of fixing what is so glaringly wrong at the NLC.

Failure to do so will only end in more misery for the most vulnerable in our society, who have been deprived of much-needed funding by the Lottery Looters.

11:30 · 2021/03/12 · [Twitter for Android](#)

11 Retweets 1 Quote Tweet 19 Likes

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J.M.A.M

"MAM3"



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## Mat Cuthbert MP

@TheMatCuthbert

@Our\_DA Member of Parliament | Shadow Deputy Minister for Trade, Industry and Competition | Social Liberal | Wits MMPP Student 🇿🇦 ❤️ ✊

📍 Ekurhuleni, South Africa

🔗 [da.org.za/our-people/nat...](https://da.org.za/our-people/nat...)

📅 Joined September 2019

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"MAM4"

09:37



## Tweet

Democratic Alliance Retweeted



**Mat Cuthbert MP**  
@TheMatCuthbert

@Our\_DA rejects ANC's  
recommendation for NLC  
chairperson

cc @OUTASA

### DA rejects ANC's recommendation for NLC chairperson

by **Mat Cuthbert MP** - DA Shadow Deputy Minister of Trade, Industry and Competition

Date: 12 March 2021  
Release: Immediate

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In their report OUTA noted that "Dr Madzivhandila has been serving on the board of the NLC from 1 April 2017 to present. This is the same board that has observed allegations of corruption and maladministration pertaining to the NLC proactive funding model".

The cited the following concerns.

- He is subject to several criminal complaints by OUTA and other organisations as a result of his membership of the board
- The Special Investigative Unit's (SIU) investigation into serious maladministration and unlawful appropriation of expenditure of public money and property by NLC coincides with his tenure on the board.
- He was the director of a non-profit company which received R900 000 from the NLC and that it needed to be determined whether or not he had declared this prior to his appointment to the board.
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In addition, the DA laid criminal charges against the entire NLC board for failing to release their list of grant beneficiaries for the 2018-2019 financial year and the Covid-19 relief fund, of which Dr. Madzivhandila was a member

Tweet your reply



*[Handwritten signature]*  
M-A-M




"MAMS"






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**jones@mitsela.com**

"MAM6"

**From:** palesa@mitsela.com  
**Sent:** Tuesday, 16 March 2021 10:11  
**To:** leader@da.org.za  
**Cc:** jones@mitsela.com  
**Subject:** RE: UNTRUE/DEFAMATORY STATEMENTS REGARDING DR MUTHUHADINI MADZIVHANDILA  
**Attachments:** 16 MAR 21\_DA.pdf

Dear Mr Cuthbert,

Please find attached herewith correspondence for your kind attention.

Kind regards,



**Palesa Maseko | Secretary**

Tel: [+27 12 051 9953](tel:+27120519953) Fax: [+27 86 471 4464](tel:+27864714464)

Email: [palesa@mitsela.com](mailto:palesa@mitsela.com) | Web: <http://www.ditsela.com>

Address: 3A, Guild House, 239 Bronkhorst Street, Nieuw Muckleneuk, Pretoria. 0001

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Handwritten signature of Palesa Maseko, consisting of a stylized 'S' followed by the initials 'M-A-M'.

MR MAT CUTHBERT MP  
THE DEMOCRATIC ALLIANCE  
THE SHADOW DEPUTY MINISTER OF TRADE, INDUSTRY AND  
COMPETITION  
MARKS BUILDING (2ND & 3RD FLOOR)  
PARLIAMENT  
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CAPE TOWN

March 16, 2021

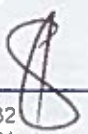
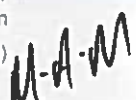
BY EMAIL: [leader@da.org.za](mailto:leader@da.org.za)

FOR ATTENTION: **MR MAT CUTHBERT MP**

Dear Mr Cuthbert,

**RE: UNTRUE/DEFAMATORY STATEMENTS REGARDING DR MUTHUHADINI  
MADZIVHANDILA**

1. We refer to the above matter and advise that we act on behalf of Dr Madzivhandila ("our Client").
2. We are instructed that on 12 March 2021, a statement was issued by yourself on the Democratic Alliance ("DA") website as well as on your twitter account titled "*DA rejects ANC's recommendation for NLC chairperson*". In this statement, reference is made to a submission made by The Organisation Undoing Tax Abuse ("OUTA"), to the Portfolio Committee on Trade, industry and Competition ("the Portfolio Committee"). Your statement makes allegations containing the submissions enclosed in the report submitted by OUTA to the Committee.
3. It is important to note that, you make an allegation in your statement pertaining to a "concern" raised by OUTA in its submission to the Portfolio Committee that our Client "*was the director of a non-profit company which received R900 000 from the NLC and that it needed to be determined whether or not he had declared this prior to his appointment to the board*". There is no truth to this allegation. Our Client is not a member, director or trustee of any non-profit organisation. This allegation was accordingly made by OUTA and repeated by yourself in your statement with the intention to and it did harm and injure our Client's good name, reputation and character.
4. Furthermore, as you are aware, the remainder of the allegations made by OUTA which you refer to in your statement as well as those you refer to as regards criminal charges against the Board of the NLC laid by the DA are under investigation by the relevant authorities. The NLC

is cooperating with such investigations, and no findings of impropriety have been made against our Client in relation thereto. As such, the allegations in your statement were clearly intended to and did harm and injure our Client's good name, reputation and character, without any legal basis therefore.

5. The statements published by yourself in your statement are defamatory of our Client in that they:
  - 5.1 Are *per se* defamatory of our Client in that they injure his good name and reputation in circumstances where no basis exists for same;
  - 5.2 Contain secondary and defamatory innuendos to the effect that Dr Madzivhandila is amongst others, guilty of corrupt, illegal activities and irregularities;
  - 5.3 Have no foundation in fact and in law, and are couched in broad disparaging terms without reference to any evidence of such corrupt, illegal and irregular activities;
  - 5.4 Are in any event patently false and constitute injurious falsehoods; and
  - 5.5 Have and are calculated to harm the reputation of our Client.
6. In light of the above, we are instructed to demand that you promptly issue a written retraction and apology to our Client and circulate it on the DA's website as well as on your twitter account, similar in prominence to your statement within 48 (forty-eight) hours of receipt of this letter.
7. Our Client's rights to institute proceedings in the High Court for appropriate relief, including but not limited to an action for damages arising from your defamatory statements, are expressly reserved.

Yours faithfully

**DITSELA INCORPORATED ATTORNEYS**

Per: Jones Ditsela

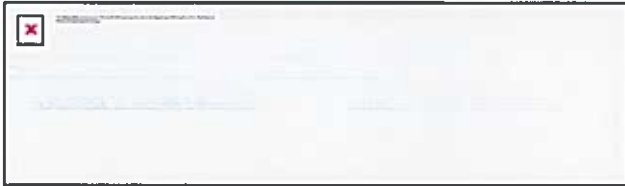
W: 584

\*Dictated/Checked/Sent Electronically



**From:** palesa@ditsela.com  
**Sent:** Tuesday, 16 March 2021 10:15  
**To:** jones@ditsela.com  
**Subject:** FW: Automatic reply: UNTRUE/DEFAMATORY STATEMENTS REGARDING DR MUTHUHADINI MADZIVHANDILA

FYI



**Palesa Maseko | Secretary**

Tel: [+27 12 051 9953](tel:+27120519953) Fax: [+27 86 471 4464](tel:+27864714464)

Email: [palesa@ditsela.com](mailto:palesa@ditsela.com) | Web: <http://www.ditsela.com>

Address: 3A, Guild House, 239 Bronkhorst Street, Nieuw Muckleneuk, Pretoria, 0001

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**From:** Leader <[leader@da.org.za](mailto:leader@da.org.za)>  
**Sent:** Tuesday, 16 March 2021 10:11  
**To:** palesa@ditsela.com  
**Subject:** Automatic reply: UNTRUE/DEFAMATORY STATEMENTS REGARDING DR MUTHUHADINI MADZIVHANDILA

Dear Sir or Madam,

This is an automated reply to acknowledge the receipt of your correspondence by the Office of the DA Leader.

Invitations and meeting requests are discussed weekly.

If you have not received a response within approximately seven working days of your correspondence or by the specified RSVP date please contact the DA's Public Liaison Office at 021 403 3570.

Correspondence:

If you have not received any response within approximately seven working days of your correspondence please contact Bongani Mnisi at [bonganimin@da.org.za](mailto:bonganimin@da.org.za) or 021 403 3952.

If your query is of a municipal nature, please contact your councillor, by clicking on (<https://www.da.org.za/our-people/ward-councillors-map/>) - put your address in the search field or click on your location on the map, the relevant details of your councillor will be displayed, and that of the relevant DA Constituency Head for your area.

If your query is related to Home Affairs, please email [assistance@da.org.za](mailto:assistance@da.org.za)

If your query is related to Membership, please email [membership@da.org.za](mailto:membership@da.org.za)

We strive to ensure that any contact with our office is attended to timeously.

Thank you for your understanding and support.

Office of the DA Leader:


Tel 021 403 3570 | Fax 086 527 9671 | E-mail [leader@da.org.za](mailto:leader@da.org.za)

Bongani Mnisi



E: [bonganimin@da.org.za](mailto:bonganimin@da.org.za)

T: 021 403 3952

 M.A.M

jones@mitsela.com

"MAM8"

**From:** jones@mitsela.com  
**Sent:** Friday, 26 March 2021 07:28  
**To:** 'palesa@mitsela.com'  
**Subject:** FW: UNTRUE/DEFAMATORY STATEMENTS REGARDING DR MUTHUHADINI MADZIVHANDILA  
**Attachments:** 25 MAR 21\_CUTHBERT\_DA.pdf; RE: UNTRUE/DEFAMATORY STATEMENTS REGARDING DR MUTHUHADINI MADZIVHANDILA  
**Importance:** High

Print for me.



Jones Ditsela | Director

Mobile: [+27 71 881 7571](tel:+27718817571) | Landline: [+27 12 051 9953](tel:+27120519953)  
Email: [jones@mitsela.com](mailto:jones@mitsela.com) | Web: <http://www.ditsela.com>

Address: 3A, Guild House, 239 Bronkhorst Street, Nieuw Muckleneuk, Pretoria, 0001

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**From:** jones@mitsela.com <jones@mitsela.com>  
**Sent:** Thursday, 25 March 2021 09:23  
**To:** 'leader@da.org.za' <leader@da.org.za>; 'mj\_cuthbert@yahoo.com' <mj\_cuthbert@yahoo.com>; 'bonganimin@da.org.za' <bonganimin@da.org.za>  
**Subject:** RE: UNTRUE/DEFAMATORY STATEMENTS REGARDING DR MUTHUHADINI MADZIVHANDILA  
**Importance:** High

Dear Sirs,

Kindly find attached correspondence for your attention and urgent response.

Kind regards,



Jones Ditsela | Director

Mobile: [+27 71 881 7571](tel:+27718817571) | Landline: [+27 12 051 9953](tel:+27120519953)  
Email: [jones@mitsela.com](mailto:jones@mitsela.com) | Web: <http://www.ditsela.com>

Address: 3A, Guild House, 239 Bronkhorst Street, Nieuw Muckleneuk, Pretoria, 0001

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*B.M.A.M*

MR MAT CUTHBERT MP  
THE DEMOCRATIC ALLIANCE  
THE SHADOW DEPUTY MINISTER OF TRADE, INDUSTRY AND  
COMPETITION  
MARKS BUILDING (2ND & 3RD FLOOR)  
PARLIAMENT  
PLEIN STREET  
CAPE TOWN

March 25, 2021

AND TO: THE DEMOCRATIC ALLIANCE

BY EMAIL: [leader@da.org.za](mailto:leader@da.org.za) / [mj\\_cuthbert@yahoo.com](mailto:mj_cuthbert@yahoo.com) /  
[bonganimin@da.org.za](mailto:bonganimin@da.org.za)

FOR ATTENTION: **MR MAT CUTHBERT MP**

Dear Mr Cuthbert,

**RE: UNTRUE/DEFAMATORY STATEMENTS REGARDING DR MUTHUHADINI  
MADZIVHANDILA**

1. We refer to the above matter as well as our letter dated 16 March 2021 annexed hereto for ease of reference. We again confirm that we act on behalf of Dr Madzivhandila ("our client").
2. We have to date not received a response or an acknowledgment of our aforesaid letter, and address this follow-up letter to you in a final attempt to obtain your response. We have added the personal e-mail address of Mr Cuthbert as well as the e-mail of Mr Bongani Mnisi provided by the automated e-mail response received after our initial correspondence.
3. We thus and further to our aforesaid letter make the following enquiry:
  - 3.1 What is the name alleged non-profit company that you allege our client was a director?
  - 3.2 When was the alleged payment of R900 000.00 made to the non-profit company?
  - 3.3 Do you have the details of the banking account holder into which the payment was allegedly made?
4. We would appreciate to receive your response within 48 hours of receipt of this letter, failing which our client will approach the High Court for appropriate relief.

Yours faithfully

**DITSELA INCORPORATED ATTORNEYS**

Per: Jones Ditsela

W: 263

\*Dictated/Checked/Sent Electronically

  
M.A.M

Mindes

MINDE SCHAPIRO & SMITH

Docex 1 | Tygerberg  
PO Box 4040 | Tyger Valley | 7536 | South Africa  
Tyger Valley Office Park | Building Number 2 | Cnr Willie van Schoor & Old Oak Roads | Bellville  
T: 021 918 9000 | 021 918 9020 (Direct Line) | F: 021 918 9070 (General) | 086 613 1061 (Direct Fax)

E: elzanne@mindes.co.za | www.mindes.co.za

Our Ref: DEM16/0770/ELZANNE JONKER | Your Ref: | Date: 29 March 2021

DITSELA INC  
PER EMAIL: [jones@ditsela.com](mailto:jones@ditsela.com)

Dear Sir

**MR MATT CUTHBERT MP / DR MUTHUHADINI MADZIVHANDILA**

1. We act for the Democratic Alliance and Mr Matt Cuthbert MP ("our client").
2. We refer to your letter dated 25 March 2021 and confirm that your letter dated 16 March 2021 was not received by our client.
3. We hold instructions to respond to both letters but do not intend to engage in the correctness of the contents of your letter.
4. It is manifestly clear from our client's statement that it repeats the concerns raised in the letter received by the Parliamentary Committee from OUTA in its letter addressed to the Committee dated 6 March 2021. Perhaps your client should address his grievances to it.
5. Our clients are also of the view that to the extent that the contents of the statement may be defamatory of your client (which is denied), the publication of the statement therein was true and in most definitely in the public interest. The statements, moreover, constitutes fair comment on facts that are true or substantially true.
6. Furthermore, we do not intend to educate your client on the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act 4 of 2004. Perhaps your client should have regard thereto first before making unsubstantiated demands.
7. Our client will not adhere to your client's demand and any claim for damages will be resisted.

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/025182/21

**Directors:** Heinrich Crous BA LLB | Elzanne Jonker BA LLB | \*Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB

**Senior Associates:** Gerhard Laurens FPSA® BA LLB | Andre van Breda B Comm LLB

**Associates:** Jhané Bezuidenhout LLB | Lauren Jacobs LLB

**Consultants:** Louis Meyer B Juris LLB | Marianne Olivier B Comm LLB LLM | Marais Hoon BA LLB

Vat registration number: 4580257428 | \*At Greenacres, Port Elizabeth

member of  
**phatshoanehenney**  
GROUP OF ASSOCIATED LAW FIRMS

\$ M-A-M


"MAMA"

# Mindes

MINDE SCHAPIRO & SMITH

Yours faithfully

**MINDE SCHAPIRO & SMITH INC.**

per: 

---

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1929 | Registration number 2010/025182/21

**Directors:** Heinrich Crous BA LLB | Elzanne Jonker BA LLB | \*Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB

**Senior Associates:** Gerhard Laurens FPSCA® BA LLB | Andre van Breda B Comm LLB

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**Vat registration number:** 4580257428 | \*At Greenacres, Port Elizabeth

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