

unless the same occurs through his/her own dishonesty.

27 AMENDMENTS

The memorandum and articles of association of the company may be amended pursuant to the provisions of the Act.



28 WINDING UP



If the company shall be wound up, the liquidator may distribute the assets of the company remaining after the satisfaction of all its liabilities, amongst such other companies or associations having objects similar to the main object of the company as may be determined by a resolution of the members of the company (before or at the time of its dissolution) or failing such determination, by the High Court of South Africa, and may for such purpose -

- 28.1 place a value which he/she deems fair upon any asset; and
- 28.2 determine how the division shall be carried out as between the different companies or associations,

provided that in the event that the company is a public benefit organisation which is exempt from payment of income tax in terms of the Income Tax Act, 1962 as amended ("**the Income Tax Act**"), the liquidator may, in terms of the provisions of section 30(3)(b)(iii) of the Income Tax Act distribute the assets of the company remaining after the satisfaction of all its liabilities amongst such other associations or institutions being public benefit organisations (having objects similar to the main object of the company) as may be determined by a resolution of the members of the company (before or at the time of its dissolution) or failing such determination, by the High Court of South Africa.



SIGNATORIES TO ARTICLES OF ASSOCIATION


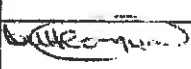
Particulars of Subscriber	Date and signature of Subscriber	Particulars of witness	Date and Signature of Witness
<u>Full names</u> Siyabonga Shandu	 14/02/2007	<u>Full names</u> Agnes Hlongwane	 14/02/2007
<u>Occupation</u> Attorney		<u>Occupation</u> Filing Clerk	
<u>Residential Address</u> Morningside Garden Villas 40 Benmore Raod Benmore 2010		<u>Residential Address</u> 1296 Siluma Ext 1 Katlhlong 1341	
<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196		<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196	
<u>Postal Address</u> Private Bag x40 Benmore 2010		<u>Postal Address</u> Private Bag x40 Benmore 2010	

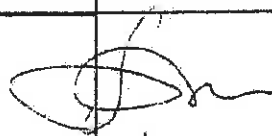
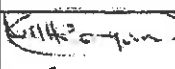
Particulars of Subscriber	Date and signature of Subscriber	Particulars of witness	Date and Signature of Witness
<u>Full names</u> Tersia Joubert	<i>Tersia Joubert</i> 14/12/07	<u>Full names</u> Agnes Hlongwane	<i>Agnes Hlongwane</i> 14/12/07
<u>Occupation</u> Secretary		<u>Occupation</u> Filing Clerk	
<u>Residential Address</u> 11 Riverbushwillow Estate Van Dalen Road Ruimsig, 1724		<u>Residential Address</u> 1296 Siluma Ext 1 Katllehong 1341	
<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196		<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196	
<u>Postal Address</u> Private Bag x40 Benmore 2010		<u>Postal Address</u> Private Bag x40 Benmore 2010	

Particulars of Subscriber	Date and signature of Subscriber	Particulars of witness	Date and Signature of Witness
<u>Full names</u> Tania Lindique	14/12/2007 <i>Tania Lindique</i>	<u>Full names</u> Agnes Hlongwane	<i>Agnes Hlongwane</i> 14/12/2007
<u>Occupation</u> Secretary		<u>Occupation</u> Filing Clerk	
<u>Residential Address</u> V2 Meron Village Lion Park Road Nietgedacht		<u>Residential Address</u> 1296 Siluma Ext 1 Katllehong 1341	
<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196		<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196	
<u>Postal Address</u> Private Bag x40 Benmore 2010		<u>Postal Address</u> Private Bag x40 Benmore 2010	

Particulars of Subscriber	Date and signature of Subscriber	Particulars of witness	Date and Signature of Witness
<u>Full names</u> Gary Jonathan Anthony Moore	 2012/12/07	<u>Full names</u> Agnes Hlongwane	 2012/12/07
<u>Occupation</u> Attorney		<u>Occupation</u> Filing Clerk	
<u>Residential Address</u> 12 Humewood Links Panners Lane River Club Sandton 2149		<u>Residential Address</u> 1296 Siluma Ext 1 Katllehong 1341	
<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196		<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196	
<u>Postal Address</u> Private Bag x40 Benmore 2010		<u>Postal Address</u> Private Bag x40 Benmore 2010	

Particulars of Subscriber	Date and signature of Subscriber	Particulars of witness	Date and Signature of Witness
<u>Full names</u> Luandri Partington	 20/12/07	<u>Full names</u> Agnes Hlongwane	 14/12/07
<u>Occupation</u> Attorney		<u>Occupation</u> Filing Clerk	
<u>Residential Address</u> 24 Gleneagles Road Hurlingham 2196		<u>Residential Address</u> 1296 Siluma Ext 1 Katllehong 1341	
<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196		<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196	
<u>Postal Address</u> Private Bag x40 Benmore 2010		<u>Postal Address</u> Private Bag x40 Benmore 2010	

Particulars of Subscriber	Date and signature of Subscriber	Particulars of witness	Date and Signature of Witness
<u>Full names</u> Anna Kitzler	20/12/2007 <i>A. Kitzler</i>	<u>Full names</u> Agnes Hlongwane	20/12/2007 <i>Agnes Hlongwane</i>
<u>Occupation</u> Secretary		<u>Occupation</u> Filing Clerk	
<u>Residential Address</u> 15 Le Roux Street Suideroord 2091		<u>Residential Address</u> 1296 Siluma Ext 1 Katllehong 1341	
<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196		<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196	
<u>Postal Address</u> Private Bag x40 Benmore 2010		<u>Postal Address</u> Private Bag x40 Benmore 2010	

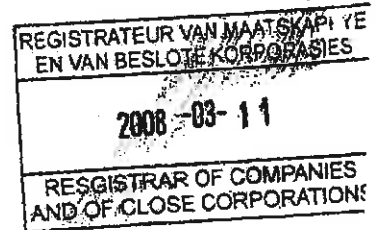
Particulars of Subscriber	Date and signature of Subscriber	Particulars of witness	Date and Signature of Witness
<u>Full names</u> Leon Rood	 14/12/07	<u>Full names</u> Agnes Hlongwane	 14/12/07
<u>Occupation</u> Attorney		<u>Occupation</u> Filing Clerk	
<u>Residential Address</u> 22 Verona Street Northcliff 2195		<u>Residential Address</u> 1296 Siluma Ext 1 Katllehong 1341	
<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196		<u>Business Address</u> 6 Sandown Valley Crescent Sandown Sandton 2196	
<u>Postal Address</u> Private Bag x40 Benmore 2010		<u>Postal Address</u> Private Bag x40 Benmore 2010	



Agent code: PWC 123

Registration No. of company/Registrasienommer van maatskappy

2008/000384/08



Certificate of change of name of company

Sertifikaat van verandering van naam van maatskappy

This is to certify that/Hierby word gesertifiseer dat
THE FOUNDATION FOR JUSTICE (ASSOCIATION INC. UNDER SECTION 21)

has changed its name by SPECIAL RESOLUTION and is now called
sy naam verander het by SPESIALE BESLUIT en nou genoem word
FREEDOM UNDER LAW (ASSOCIATION INC. UNDER SECTION 21)

and that the new name has this day been entered in the Register of Companies
en dat die nuwe naam op hierdie dag in die Register van Maatskappye aangeteken is

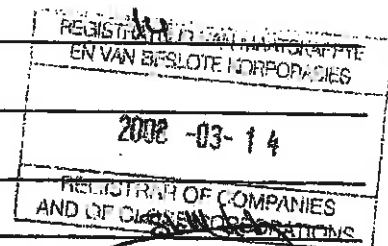
Signed and sealed at Pretoria, this/ Geteken en geseël te Pretoria op hede die

day of/dag van

March

Two Thousand And Eight /Twee Duisend En Agt

2008



Registrar of Companies/Registrateur van Maatskappye

Seal of Companies Registration Office
Seël van Registrateur van Maatskappye

[Handwritten signature]

REGISTRATEUR VAN MAATSKAPPE
EN VAN BESLOTE KORPORASIES

110

FORM CM26

Agent code: PWC 123

REPUBLIC OF SOUTH AFRICA
COMPANIES ACT 71

REGISTRAR OF COMPANIES
AND OF CLOSE CORPORATIONS

Revenue stamp or
revenue franking machine
impression of RMB
PWC 123 RMB

Special resolution

(Section 200)

(To be lodged in duplicate)

Registration No. of Company
2008/000384/08

Name of company THE FOUNDATION FOR JUSTICE (ASSOCIATION INC. UNDER SECTION 21)

Date notice given to members ++ 28/2/2008 Date resolution passed ++ 28/2/2008

Special resolution passed in terms of section 44 of the Act/*paragraph 1.1 of the memorandum/

*article _____ of the articles.

Copy of notice convening meeting attached.

Consent to waive period of notice of meeting (CM 25) attached/*not attached.

FORM CM25A ATTACHED

CONTENTS OF RESOLUTION (Use reverse side if necessary)

Resolved:

THAT the name of the company be and is hereby changed to:

FREEDOM UNDER LAW (ASSOCIATION INC. UNDER SECTION 21)

Rubber stamp of company, if any, or of secretaries

Date 28/2/2008

Signature

[Signature]
Director/Secretary/Manager

Name (in block capitals) L PARTINGTON

* Delete whichever not applicable.

To be completed by company

Herewith copy of special resolution as registered

Registration No. of Company
2008/000384/08

Name of company THE FOUNDATION FOR JUSTICE (ASSOCIATION
INC. UNDER SECTION 21)

Postal address P O BOX 57 STELLENBOSCH
7599

Not valid unless stamped by Registrar of Companies

Reproduced under Government Printer's Copyright 9632 dated 10/6/93 - Accla Software (P) 11/915-0525

Entry Ref 1390

Special resolution registered this day
Date stamp of Companies Registration Office
REGISTRATEUR VAN MAATSKAPPE EN VAN BESLOTE KORPORASIES Registrar of Companies
<u>[Signature]</u>
REGISTRAR OF COMPANIES AND OF CLOSE CORPORATIONS

TELEPHONE: _____

REPUBLIC OF SOUTH AFRICA

COMPANIES ACT, 1973

(Section 64)

CERTIFICATE OF INCORPORATION
OF A COMPANY NOT HAVING A SHARE CAPITAL

THE FOUNDATION FOR
JUSTICE
2008/000384/08

AT

THE FOUNDATION FOR JUSTICE (ASSOCIATION INCORPORATED UNDER
SECTION 21)

was this day incorporated under the Companies Act, 1973 (Act 61 of 1973), and is
incorporated under Section 21.

Signed and sealed at PRETORIA this 16 day of January 2008

REGISTRAR OF COMPANIES

Seal of Companies Registration Office.

This certificate is not valid unless sealed by the seal of the Companies
Registration Office.

1
[Signature]

CERTIFICATE

I, the undersigned

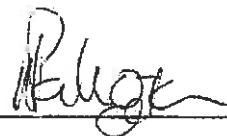
LUANDRI PARTINGTON

a Notary Public, practising at Sandton, in the Province of Gauteng, Republic of South Africa, duly admitted and sworn, do hereby certify and attest unto all whom it may concern that the Certificate of Incorporation, Memorandum and Articles of Association of –

**THE FOUNDATION FOR JUSTICE (ASSOCIATION INCORPORATED UNDER
SECTION 21)**

which is annexed hereto, is a true and faithful copy of the original hereof.

DATED at SANDTON on 20th DECEMBER 2007.



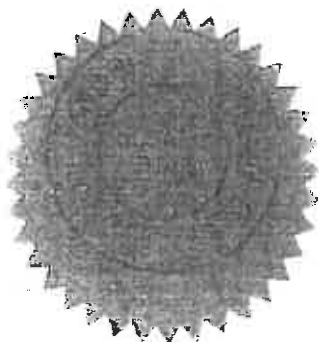
NOTARY PUBLIC

Hofmeyr Herbstein & Gihwala Inc

6 Sandown Valley Crescent

Sandown

Sandton



{MMC/MMC1100/PRIVATE/00114152/I}
20060123a



113/3

CW3

MN 1



4 July 2014

Dear Mr Nxasana

NOTICE OF INSTITUTION OF ENQUIRY

I hereby advise you that, after careful consideration of all the matters before me, I have taken a decision to institute an enquiry in terms of Section 12(6)(a)(iv) of the National Prosecuting Authority Act 32 of 1998.

The detail regarding the establishment of the Enquiry will be communicated to you shortly.

Yours faithfully

Mr Jacob G. Zuma

President, Republic of South Africa

Mr Nxasana
National Director of Public Prosecutions
Private Bag X 752
Pretoria
0001

Handwritten signatures and initials:
MAG Jund
Kee
Tt

MM 2 CW4



**NOTICE OF INTENTION TO SUSPEND IN TERMS OF SECTION 12(6)(a)
OF THE NATIONAL PROSECUTING AUTHORITY ACT 32 OF 1998**

You are no doubt aware that the National Prosecuting Authority is an important constitutional institution in the administration of justice and that maintaining public confidence in the institution is of necessity. In consideration of maintaining the integrity of the National Prosecuting Authority and in particular its good administration, I am giving consideration to suspending you on full pay pending the finalization of the enquiry to which I've referred.

The enquiry will examine your fitness to hold the office as National Director of Public Prosecutions having regard to whether:

1. the criminal convictions which you possess for violent conduct;
2. reported comments in the media are unbecoming of a National Director of Public Prosecutions, divisive and have the effect of bringing the National Prosecuting Authority into disrepute;

And you ~~not~~ do

3. the lack of disclosure of the facts and circumstances of prosecutions which you faced

are consonant with the conscientiousness and integrity of an incumbent to the office of National Director of Public Prosecutions as required by the Act.

You are required to furnish me with written representations in this regard by no later than 16h00 on Friday 1 August 2014.

Yours faithfully



Mr Jacob G. Zuma

President of the Republic of South Africa

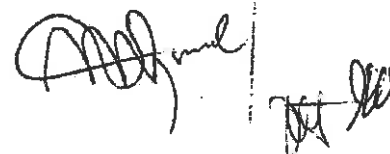
Mr Nxasana

National Director of Public Prosecutions

Private Bag X 752

Pretoria

0001



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO. 59/60/14

In the matter between:

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

Applicant

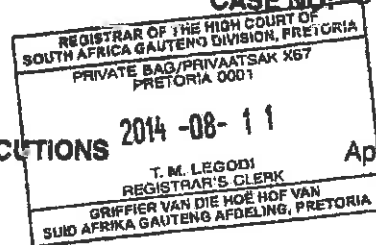
and

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES

Second Respondent



FILING SHEET

DOCUMENTS PRESENTED FOR FILING:

1. NOTICE OF MOTION;
2. FOUNDING AFFIDAVIT;
3. ANNEXURES "MN1"- "MN6";
4. CONFIRMATORY AFFIDAVIT.

SIGNED and DATED at JOHANNESBURG on 8 AUGUST 2014

**MABUNDA INCORPORATED**

Applicant's Attorneys

G/O T M CHAUKE INC.**3RD FLOOR, EASTWING****SAMMY MARKS SQUARE****314 CHURCH STREET****PRETORIA**

TEL : (011) 450-2284/1641

FAX : (011) 450-1655

REF: MR MABUNDA

TO :

The Registrar of the above Honourable Court

PRETORIA

AND TO :

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA**UNION BUILDINGS****GOVERNMENT AVENUE, PRETORIA****C/O MR MICHAEL HULLEY**

michael@hulleyinc.co.za

Received copy hereof on this

day of 11/8 2014.

TILL MOETHAFor: 1st Respondent's

AND TO :

THE STATE ATTORNEY**SALU Building****316 Thabo Sehume Street****PRETORIA****STAATSPROKUREUR**
PRIVAATSAK/PRIVATE SAG X91
PRETORIA 0001

2014-08-11

Received copy hereof on this

day of 10/8 2014.

For: 2nd Respondent's

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

CASE NO:

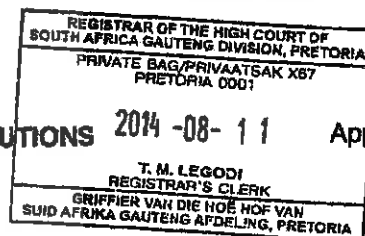
In the matter between:

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

2014 -08- 11

Applicant

and



THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

**THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES**

Second Respondent

NOTICE OF MOTION

TAKE NOTICE THAT the Applicant will apply to the above Honourable Court on Tuesday 12 August 2014 at 10h00 or so soon thereafter as the Applicant may be heard, for orders in the following terms:

- 1 Dispensing with the forms and service provided for in the Rules of Court and allowing that the application be enrolled and heard as one of urgency under Rule 6(12)(a) of the Uniform Rules of Court.
- 2 Directing the First Respondent to provide the Applicant with the following particularity of allegations made against him in a notice dated 30 July 2014:

- 2.1 the criminal convictions referred to in the first bullet point of the notice;
 - 2.2 the comments the Applicant allegedly made to the media, the dates on which he is alleged to have made them and the media in which they were published;
 - 2.3 the prosecutions the Applicant is accused of not disclosing; and
 - 2.4 to whom and when he failed to make these alleged disclosures;
- 3 Interdicting the First Respondent from suspending the Applicant before:
- 3.1 providing the particularity referred to in paragraph 2;
 - 3.2 granting the Applicant a period of five (5) days after receipt of the particularity referred to in paragraph 2 to make supplementary representations;
- 4 Directing the First Respondent to grant the Applicant a period of five (5) days after receipt of the particularity contained in paragraph 2, within which to make supplementary representations.
- 5 Directing the First Respondent to pay the costs of this application;
- 6 Granting the Applicant further and/or alternative relief.

TAKE NOTICE FURTHER THAT the affidavit of Mxolosi Nxasana, together with annexures in support of this application will be used in support of this application.

[Handwritten signatures]

TAKE NOTICE FURTHER THAT the Applicant has appointed Busani Mabunda of Mabunda Inc, as set out below, as its attorneys of record, at the address referred to in rule 6(5)(b) at which it will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER THAT if you intend opposing this application, you are required to –

- (a) indicate such intention by advising Mr Busani Mabunda by 10h00 on 11 August 2014;
- (b) file an answering affidavit, alternatively a notice in terms of Rule 6(5)(iii) on or before 14h00;
- (c) appear in court, duly represented by a legal practitioner with right of appearance at the above stated time.

TAKE NOTICE FURTHER THAT if no notice to oppose is given, the application will proceed unopposed at 10h00.

KINDLY enrol the matter for hearing accordingly.

SIGNED and DATED at JOHANNESBURG on 8 AUGUST 2014



Applicant's Attorneys

C/O T M CHAUKE INC.

3RD FLOOR, EASTWING

SAMMY MARKS SQUARE

314 CHURCH STREET

PRETORIA

TEL : (011) 450-2284/1641

FAX: (011) 450-1655

REF: MR MABUNDA

TO:

The Registrar of the above Honourable Court

PRETORIA

AND TO :

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

UNION BUILDINGS

GOVERNMENT AVENUE, PRETORIA

C/O MR MICHAEL HULLEY

michael@hulleyinc.co.za

Received copy hereof on this
day of 2014.

For: 1st Respondent's

AND TO :

THE STATE ATTORNEY

SALU Building

316 Thabo Sehume Street

PRETORIA

Received copy hereof on this
day of 2014.

For: 2nd Respondent's

~~2/11~~ 2/11

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO:

In the matter between:

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

Applicant

and

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES

Second Respondent



FOUNDING AFFIDAVIT

I, the undersigned

MXOLISI NXASANA

do hereby state under oath as follows:

- 1 I am the National Director of Public Prosecutions ("NDPP") and the Applicant in this application. I was appointed by the President of the Republic of South Africa, the honourable Mr Zuma, with effect from 1 October 2013, in terms of section 84(e) of the Constitution of the Republic of South Africa (Act 108 of 1996).
- 2 I am based at the head office of the National Prosecuting Authority, Victoria and Griffiths Mxenge Building, 123 Westlake Avenue, Weavind Park, Silverton.

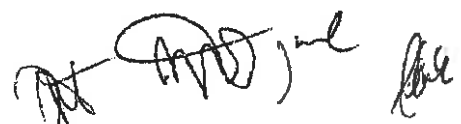
- 3 The facts deposed to below are within my personal knowledge, unless otherwise stated or indicated by the context, and they are, to the best of my belief, true.

The parties

- 4 The First Respondent is the President of the Republic of South Africa. Service on the President is usually through the office of the State Attorney, SALU Building, 318 Thabo Sehume Street, Pretoria.
- 5 The Second Respondent is the Minister of Justice and Correctional Services ("the Minister"). Service on the Minister is usually through the office of the State Attorney, SALU Building, 318 Thabo Sehume Street, Pretoria. The Minister has no power to appoint or suspend me. He is cited because as the member of the executive responsible for exercising political oversight over the National Prosecuting Authority, excluding the NDPP, he has an interest in the outcome of this matter. No relief is sought against the Minister except in the event that he opposes this application.

Purpose of the affidavit

- 6 This is an urgent Application in which I seek the following order:
- 6.1 Directing the First Respondent to provide me with the following particulars of allegations made against me in a notice sent to me on 30 July 2014:
- 6.1.1 the criminal convictions referred to in the first bullet point of the notice;

Handwritten signature and initials, possibly "MAD" and "J" followed by a flourish.

3

6.1.2 the comments I allegedly made to the media, the dates on which I am alleged to have made them, and the media in which they were published;

6.1.3 the prosecutions I am accused of not disclosing; and

6.1.4 to whom and when I failed to make these alleged disclosures;

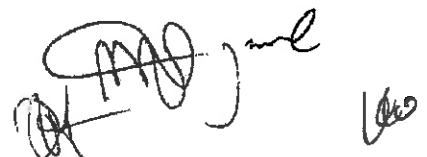
6.2 Interdicting the First Respondent from suspending me before:

6.2.1 providing me with particularity of the allegations contained in paragraph 6.1 above;

6.2.2 giving me a period of five (5) days after receipt of the particularity contained in paragraph 5 above within which to file supplementary representations.

Why this application is necessary

7 By letter dated 4 July 2014, the President informed me that, after careful consideration, he had taken a decision to institute an inquiry in terms of section 12(6)(a)(iv) of the National Prosecuting Authority Act, 32 of 1998 ("the NPA Act). Section 12(6)(a)(iv) provides that the President may provisionally suspend the NDPP from his office, pending an inquiry into his fitness to hold office. A copy of this letter is attached marked "MN1".

Handwritten signature and initials in the bottom right corner of the page.

8 The President advised me that the details regarding the establishment of the inquiry would be communicated to me shortly. The notice did not contain the terms of reference of such an inquiry. Nor did it list the allegations that the inquiry would investigate against me.

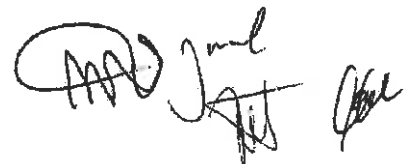
9 On 30 July 2014 I received a notice from the President informing me that he was considering suspending me on full pay pending the finalisation of the inquiry into whether I am fit and proper to hold the office of the NDPP. A copy of this notice is attached marked "MN2". The notice reads:

"The enquiry will examine your fitness to hold the office as National Director of Public Prosecutions having regard to whether:

- 1. The criminal convictions which you possess for violent conduct;*
- 2. Reported comments in the media are unbecoming of a National Director of Public Prosecutions, divisive and have the effect of bringing the National Prosecuting Authority into disrepute;*
- 3. The lack of disclosure of the facts and circumstances of prosecutions which you faced.*

are consonant with the conscientiousness and integrity of an incumbent to the office of National Director of Public Prosecutions as required by the Act."

10 The notice invited me to provide the President with written representations as to why I should not be suspended by no later than 16h00 on Friday 1 August 2014.

Handwritten signatures and initials at the bottom right of the page. There are three distinct marks: a large circular signature, a signature that appears to be 'Jewel', and another signature to the right.

- 11 On receipt of the notice, I wrote to the President and requested that I be granted an extension until Friday 8 August at 16h00 within which to make representations. A copy of this letter is attached marked "MN3".
- 12 The reasons that I sought an extension were the following:
- 12.1 On 28 July 2014 my younger sister's husband had passed away. I informed the President that the funeral would take place on Saturday 2 August 2014 and that I was due to leave for KZN the following day to help my sister with funeral preparations.
- 12.2 In order for me to make proper representations, I required particulars of the following allegations:
- 12.2.1 the criminal convictions referred to in the first bullet point;
- 12.2.2 the comments I was alleged to have made, the dates on which I allegedly made them, to whom I made them and the media in which they were published;
- 12.2.3 the prosecutions I am accused of not disclosing; and
- 12.2.4 to whom and when I failed to make these alleged disclosures.
- 13 By Friday morning, 1 August 2014, the date on which I was required to make representations, I had not yet received a response to my request for additional time as well as additional particularity regarding the allegations

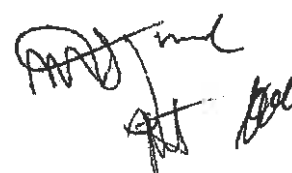
Handwritten signatures and initials:
A large circular stamp with the word "ATTORNEY" inside, partially obscured by a signature.
To the right of the stamp, the word "and" is written.
Below "and", the word "Bel" is written.

against me.

- 14 My office manager, Mr Schmidt, tried unsuccessfully to contact someone in the Presidency to enquire whether or not the President had received my request for an extension. Eventually at approximately 08h40 he spoke to Mr Sekhoto, whom I understand is the President's private secretary. Mr Sekhoto confirmed that the President had received my request and that I would be informed of the outcome shortly. Mr Schmidt provided Mr Sekhoto with his email address and asked him to direct any correspondence for my attention to his email address.
- 15 Mr Schmidt did not hear from Mr Sekhoto for the rest of the day, despite repeated attempts to contact him.
- 16 The result is that I was put under tremendous pressure to make representations at short notice and without sufficient particularity to make them properly, so as to meet the deadline of 1 August 2014. Shortly after 16h00 (at 16h47) on Friday 1 August, my office emailed my representations to Mr Sekhoto for the President's attention. A copy of my representations is attached, marked "MN4".
- 17 I made these preliminary but inadequate and incomplete representations because I did not want to risk being accused of ignoring the President's invitation to make representations.

Handwritten signature and initials:
M. J. ml
Not [signature]

- 18 By letter on 2 August 2014, after the deadline for me to make representations had already passed, I received a letter from the President advising me that he had granted me an extension to make representations until Friday 8 August 2014. The President apologised for the fact that I had not been advised of this in time. I was informed that should I wish to do so, I would be entitled to supplement the representations I had already made. A copy of this letter is attached marked "MN5".
- 19 The President's letter made no mention of the fact that I had requested of the allegations made against me, which allegations are to form the basis of the enquiry against me, in my letter of 30 July 2014.
- 20 By letter dated 5 August 2014, I reminded the President that I had not yet had a response to my letter of 30 July 2014 in which I asked for particularity of the allegations made against me. I reiterated that I required these particulars in order to make proper representations and that if I did not receive them urgently, I would not be in a position to supplement my representations by Friday 8 August 2014. I asked the President to respond to this letter urgently.
- 21 The Presidency acknowledged receipt of my letter of 5 August 2014. They did not indicate however whether the contents had been brought to the attention of the President and whether the President intended to provide me with the particularity requested.
- 22 That is why by letter on 6 August 2014 I did the following:

Handwritten signature and initials in black ink, appearing to be 'AAD' followed by a flourish, and 'JH' and 'JH' below it.

22.1 I pointed out that I had not yet received a response to my request for particularity of the allegations made against me;

22.2 I again reminded the President that I would not be in a position to supplement my representations if I did not receive the particularity requested;

22.3 I stressed that I was being prejudiced by the President's failure to provide me with the particularity I requested and that even if the President were to provide me with the particularity I required, at this late stage I would not be in a position to supplement my representations by Friday 8 August 2014;


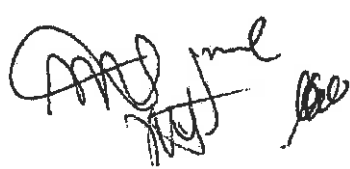
22.4 I asked the President when he would provide me with the particularity sought in my letter of 30 July 2014;

22.5 I also asked for an undertaking that he allow me five days from the receipt of the particularity to provide representations;

22.6 I informed the President that if I was not provided with an undertaking that I would be allowed five days from receipt of the particularity requested within which to make representations, by 15h00 on 7 August 2014, I would be forced to approach this Court for relief.

23 During the course of the late afternoon on 7 August 2014, the following happened:

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- 23.1 In response to queries from my office, Mr Sekhoto sent my personal assistant an email confirming that the President was out of the country and that on his arrival later that night my letter and its contents would be brought to his attention;
- 23.2 My attorney, Mr Mabunda, got hold of Mr Hulley, the President's legal advisor, who undertook that the Presidency would get back to me by 09:00 on Friday 8 August 2013 with a response to my request.
- 23.3 I decided to hold off launching papers until 09:00 on Friday morning.
- 24 By 09:00 I had not yet received any response to my 6 August letter. My attorney contacted Mr Hulley shortly after 09h00. Mr Hulley informed him that a letter responding to my request was on its way. By letter sent under cover of an email on 8 August 2014 at 10h35 the President informed me that of the following:
- 24.1 I have until 16h00 on Wednesday 13 August to supplement my representations;
- 24.2 He refused to furnish me with the particulars sought in paragraph 6 above. 
- 25 A copy of the President's letter is attached, marked "MN6".
- 

My right to a fair hearing

- 26 Section 12(6)(a) of the NPA Act empowers the President to suspend me pending an enquiry into my fitness to hold office. Implicit in the statutory power to suspend is the right to a fair hearing before suspension.
- 27 The requirement of fairness requires that I be given a fair hearing or a fair opportunity to be heard on why I should not be suspended. That means that I should be given sufficient or adequate time and sufficient or adequate particularity of the allegations against me to make proper representations. It is apparent from the President's letter of 30 July 2014 that I am not given sufficient or adequate essential particularity of the allegations against me.
- 28 The first bullet point of the President's notice of 30 July refers to the "criminal convictions I possess for violent conduct. The President does not give particulars of the criminal convictions to which this allegation refers.
- 29 In the second bullet point of the President's notice of 30 July I am told that the enquiry will investigate "reported comments in the media" which the President contends are unbecoming of an NDPP, are divisive and have the effect of bringing the NPA into disrepute. The President does not give particulars of the comments reported in the media, the dates on which those comments are reported and the media in which they are reported.

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- 30 The third bullet point informs me that the enquiry will consider whether I am fit to hold the office of NDPP in light of my lack of disclosure, facts and circumstances of prosecutions which I faced. The President does not give particularity of the prosecutions, nor to whom and when I failed to disclose the prosecutions, referred to in the third bullet point.
- 31 I can speculate, as I have in my representations of 1 August 2014. But to require me to speculate about the essential particulars of the allegations against me is unfair.
- 32 Because I do not have the essential particulars of the allegations against me, I cannot say whether they are true, or whether they are sufficiently serious to warrant suspension, or whether they are such that it is not possible for me to interfere with an investigation into them or with witnesses who make them. These are all considerations relevant to suspension.
- 33 In his 8 August 2014 letter, the President justifies his refusal to provide me with particulars of the allegations by saying that:

"It is my view that the details you require in paragraph 5 of your letter dated 30 July 2014 and repeated under paragraph 2 of your recent letter are matters that will be the subject of the enquiry that I advised I shall be instituting. The information which I have provided is sufficient for the purpose of the representations which you are invited to make. In any event, it appears apparent from your initial response that you are well aware of the matters to which I refer."

OK

That
M. J. M.
Bel

As a result, I do not deem it appropriate to engage on the matters that will form the subject-matter of the enquiry. My letter invites you to make representations as to why you believe I should not suspend you pending the finalisation of this enquiry and I await your supplementary representations by no later than the extended deadline of 16h00 on Wednesday 13 August 2014."

Hx

- 34 I submit that it is unfair and unlawful to require me to respond to allegations as lacking in particularity as the allegations in the President's notice of 30 July 2014 are.

Prejudice/Urgency

- 35 The application to stop my suspension (until I am furnished with adequate or sufficient particularity) is urgent because it is threatened to, or is likely to ~~take~~ place at 16h00 on Wednesday 13 August 2014.

- 36 The particularity I seek must be easily available since I assume that it informed the President's decision to institute an inquiry into whether I am fit and proper to serve as NDPP.

Hx

- 37 All I require is that I am furnished with the particularity so that I can make proper representations and deliver supplementary representations.

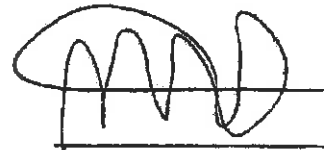
Hx

- 38 The President's failure ^{are} to puts me in an untenable position. I do not believe that there sufficient grounds to suspend me. I want to supplement my representations to show that there are none. But I am unable to do so until I receive the particularity sought and time to respond.

Hx
Hx

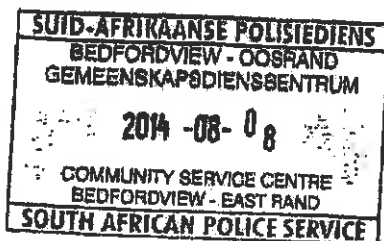
39 I have done everything possible to avoid having to approach the Court. Despite reminding the President on three different occasions with the fact that he has not provided me with sufficient particularity and that I require such particularity to make proper representations, he refuses to provide particularity.

40 I attach a confirmatory affidavit from my attorney.



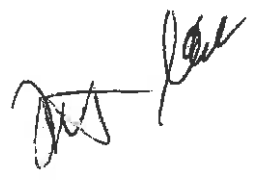
MXOLISI NXASANA

jud
I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at SANDTON on 8 AUGUST 2014, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, have been complied with.



Commissioner of Oaths
COMMISSIONER OF OATHS

Full names: *Leon R. M. M. M.*
Address: *60 VAN BURGH ROAD*
Capacity: *SERGEANT*





MN 1

4 July 2014

Dear Mr Nxasana

NOTICE OF INSTITUTION OF ENQUIRY

I hereby advise you that, after careful consideration of all the matters before me, I have taken a decision to institute an enquiry in terms of Section 12(6)(a)(iv) of the National Prosecuting Authority Act 32 of 1998.

The detail regarding the establishment of the Enquiry will be communicated to you shortly.

Yours faithfully

Mr Jacob G. Zuma

President, Republic of South Africa

Mr Nxasana
National Director of Public Prosecutions
Private Bag X 752
Pretoria
0001

MH 2



30 July 2014

Dear Mr Nxasana

**NOTICE OF INTENTION TO SUSPEND IN TERMS OF SECTION 12(6)(a)
OF THE NATIONAL PROSECUTING AUTHORITY ACT 32 OF 1998**

I had earlier advised you of my decision to institute an enquiry in terms of Section 12(6)(a)(iv) of the National Prosecuting Authority Act 32 of 1998. The enquiry is in the throes of being established and I am advised that the details of such will be communicated to you in the next few days with a view to it proceeding expeditiously.

You are no doubt aware that the National Prosecuting Authority is an important constitutional institution in the administration of justice and that maintaining public confidence in the Institution is of necessity. In consideration of maintaining the integrity of the National Prosecuting Authority and in particular its good administration, I am giving consideration to suspending you on full pay pending the finalization of the enquiry to which I've referred.

The enquiry will examine your fitness to hold the office as National Director of Public Prosecutions having regard to whether:

1. the criminal convictions which you possess for violent conduct;
2. reported comments in the media are unbecoming of a National Director of Public Prosecutions, divisive and have the effect of bringing the National Prosecuting Authority into disrepute;

[Handwritten signatures and initials]

3. the lack of disclosure of the facts and circumstances of prosecutions which you faced

are consonant with the conscientiousness and integrity of an incumbent to the office of National Director of Public Prosecutions as required by the Act.

You are required to furnish me with written representations in this regard by no later than 16h00 on Friday 1 August 2014.

Yours faithfully



Mr Jacob G. Zuma

President of the Republic of South Africa

Mr Nxasana

National Director of Public Prosecutions

Private Bag X 752

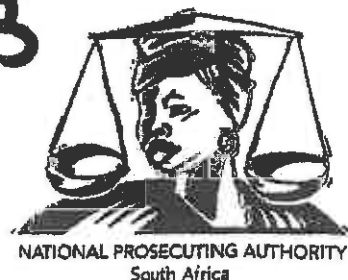
Pretoria

0001



MN 3

**Office of the
National Director of Public
Prosecutions**



His Excellency,
The President of the Republic of South Africa
Mr J G Zuma

Dear Mr President

Victoria & Griffiths
Mxenge Building
Westlake Avenue
Leavind Park
Silverton

P/Bag X752
Pretoria
0001

Tel: (012) 845-6000
Fax: (012) 804 9529
www.npa.gov.za

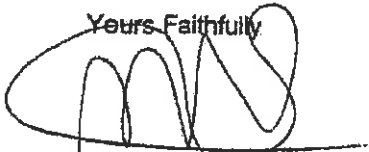
**Notice of Intention to suspend the NDPP in terms of s12(6)(a) of the
National Prosecuting Authority Act 32 of 1998**

1. I refer to your letter requesting me to make representations by Friday 1 August at 16h00 as to why I should not be suspended from my position as National Director of Public Prosecutions.
2. I would like to request that the time period within which I am required to make representations be extended until Friday 8 August at 16h00.
3. On Monday I suffered a bereavement of a family member. My younger sister's husband passed away on Monday. I have a particularly close relationship with my younger sister since she was allocated to me by my parents according to custom, and I have special duties to fulfil at times such as these.
4. The funeral will be on Saturday in Paulpietersburg. In order to assist with preparations for the funeral, I am scheduled to leave for Paulpietersburg today. I am only due back in Pretoria on Monday and need time to consult with my legal representatives to prepare my representations.
5. In order for me to make proper representations, I require detail of the following allegations:
 - 5.1. What criminal convictions are referred to in bullet point 1?
 - 5.2. Please provide details of each comment allegedly made by me, the date on which it was reported and the name of the publication it was reported in.
 - 5.3. What prosecutions are referred to in bullet point 3? When and to whom did I fail to make disclosure as alleged in bullet point 3?



6. I look forward to hearing from you.

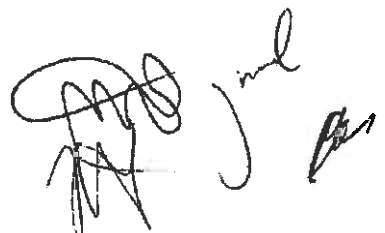
Yours Faithfully



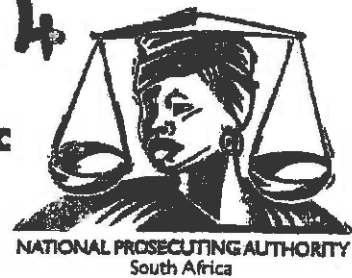
Mr Mxolisi Nxasana

National Director of Public Prosecutions

Date: 31/07/2014



**Office of the
National Director of Public
Prosecutions**



The Honourable Mr Jacob G Zuma
President of the
Republic of South Africa

Dear President Zuma

Representations for the National Director of Public Prosecutions in response to notice of intention to suspend in terms of section 12(6)(a) of the National Prosecuting Authority Act, 32 of 1998 ("the NPA Act")

Victoria & Griffiths
Mxenge Building
23 Westlake Avenue
Weavind Park
Silverton

P/Bag X752
Pretoria
0001

Tel: (012) 845 - 6000
Fax: (012) 804 - 9529
www.npa.gov.za

Discretionary power to suspend

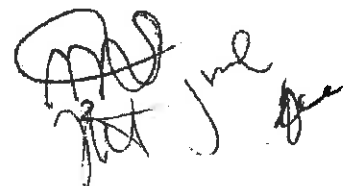
1. Section 12(6)(a) of the NPA Act provides for the President to provisionally suspend the NDPP from his or her office pending an inquiry into his or her fitness to hold such office.
2. By letter dated 5 July 2014, I was informed of your intention to establish an inquiry in terms of section 12(6)(a) into my fitness to hold office. The reasons for the inquiry were not given, nor did the letter set out the allegations giving rise to the inquiry.
3. On 30 July 2014, I received a notice inviting me to make representations as to why I should not be suspended from my position as the National Director of Public Prosecutions ("NDPP"). The allegations that are the reason for the inquiry are the following:

3.1. My criminal convictions for violent conduct;



Justice in our society so that people can live in freedom and security

- 3.2. Comments reported in media to have been made by me that are unbecoming of an NDPP, are divisive and have the effect of bringing the NPA into disrepute; and
 - 3.3. The failure to lack of disclosure of facts and circumstances of prosecutions that I faced.
4. On receipt of this letter, I immediately wrote to you asking for additional time, until Friday 8 August 2014, to make representations as to why I should not be suspended.
5. My reasons for requesting more time to respond are that I suffered a family bereavement and had to help organize and prepare for the funeral on Saturday 2 August 2014, and that I needed details of the allegations made against me in your notice of 30 July 2014 so that I can properly prepare for and make representations.
6. I remind you that these details are the following:
 - 6.1. Details of the criminal convictions referred to in the first bullet point;
 - 6.2. Details of the comments I am alleged to have made, the dates on which I am alleged to have made them and the media in which they were published;
 - 6.3. Details relating to the prosecutions I am accused of not disclosing and details of to whom and when I failed to make these alleged disclosures.
7. By 15:55 I had not yet received confirmation that you had granted me more time to file my representations. I take that failure to respond to mean that you do not grant my request.

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8. Consequently, I am forced to make these representations without adequate information that would enable me to respond properly and without being given sufficient time to prepare my response.

Suspension – the general rule

9. Section 12(6)(a) of the NPA Act empowers the President to suspend the NDPP pending an inquiry into his or her fitness to hold office. The NPA Act is silent on the circumstances that must exist for the President to exercise this discretion. My understanding of s12(6) is that the President is given a discretionary power to suspend. That means he must exercise it subject to the law and the requirements of fairness and rationality.
10. The object of the President's discretionary power to suspend is to protect the integrity of the office of the NDPP and to protect any pending investigation from improper influence or interference by an NDPP who is under investigation.
11. So, a suspension without a hearing or an adequate opportunity to be heard would be unfair. And a suspension in the absence of allegations of serious misconduct and reasonable grounds for believing that the NDPP will interfere with or jeopardise an investigation into the allegations, would not be exercising your discretionary power to suspend fairly, lawfully or rationally.¹

¹ Mogothe v Premier of the North West Province (2009) 30 ILJ 605 (LC) at [33] and [39]

Regulated Flexibility: Revisiting the LRA and the BCEA (2006) 27 ILJ 663 at 683

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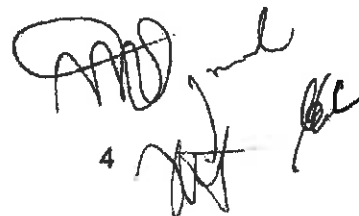
The allegations against me do not constitute serious misconduct

No criminal convictions

12. Section 271A(b) of the Criminal Procedure Act, entitles me to apply to expunge my criminal record. Although I have not done so, I intend to do so. When I do, the Director-General will be obliged to issue me with a certificate of expungement. These two convictions will fall away and in law, I will not have any criminal convictions.

The assaults are not allegations of serious misconduct

13. The two assaults of which I was convicted, concern events that took place almost 30 years ago. They are unrelated to the NPA or to my responsibilities as NDPP nor were they related to an employment situation.
14. The first assault happened in 1985. I do not recall the details or what I was found guilty of. I had forgotten about it. I was reminded of it when I applied for my security clearance during December 2013. I was convicted of the first assault on 23 July 1985. At the time I was 17 years old. I was cautioned and discharged.
15. The second assault happened in 1986, at Nongoma. I was charged and convicted on 13 November 1986 of common assault for assaulting my girlfriend at the time. I remember that my girlfriend and I had a fight, although I do not recall the details. I was sentenced to 30 days imprisonment or a R50 fine. I paid the fine.
16. In my application for admission as an attorney, made in the Pietermaritzburg High Court, I disclosed the assault


4

conviction. The High Court found me to be a fit and proper person to be admitted as an attorney of the High Court.

17. The fit and proper test for admission as an attorney is the same or substantially similar to the fit and proper test for appointment as NDPP.² A High Court has already found me to be fit and proper. It has already found that my past criminal record does not make me unfit or improper to be admitted as an attorney. There cannot be any reason why two very old criminal convictions for minor offences, that will be expunged, should render me unfit or improper to be appointed as NDPP.


Reported comments in the media

18. I have requested details about what comments I allegedly made, when I made them and in what media they were reported. At the time of making these submissions, I was not provided with this information.
19. I assume that they are comments reported in the Sunday Independent and the Weekend Argus on 1 June 2014 and the Sunday Times on 6 July 2014.
20. In the interview, I am reported as saying:
- 20.1. Former Minister of Justice asked me to resign;
- 20.2. Two of my deputies, Jiba and Mrwebi were plotting to have me fired;
- 20.3. Jiba had sanctioned people to investigate me with the intention of "finding dirt on me";

² *Pikoli v President of the Republic of South Africa* 2010 (10 SA 400 (GNP) at 406F

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5

- 20.4. I learned about the President's intention to establish and inquiry to determine whether I was a fit and proper person from the media.
21. These news reports are accurate. As I confirmed in my response to the Minister dated 22 May 2014, he asked me to resign at a meeting on 21 May 2014. That allegation is true.
22. As I explained in my response to you on 21 June 2014:
- 22.1. As early as October 2013 I was provided with two affidavits from two NPA employees confirming that they had been approached by Colonel Welcome "WS" Mhlongo, a member of the Hawks for information about me. One of them provided a voice recording in which Col Mhlongo is heard to confirm that he was acting on the authority of Deputy NDPP Nomgcobo Jiba to collect information about me to discredit me.
- 22.2. As soon as I was made aware of this I brought it to the attention of the Executive Committee of the NPA.
- 22.3. I have also brought these allegations to your attention and asked that you investigate them.
- 22.4. It was also brought to my attention that rumours about me were circulating. One of the rumours is that I intended reinstating criminal charges against the President. That rumour is false.

 Jml
H6

22.5. The information by Col Mhlongo gives rise, at the very least, to a reasonable suspicion that there is a plot by Jiba to discredit me.

Lack of disclosure regarding prosecutions I faced

23. I have asked for, but have not been provided with details of the prosecutions referred to in the notice. Because of this I am forced to speculate.
24. I suspect that this allegation relates to two matters. The first relates to my arrest and subsequent acquittal for murder. Briefly, the facts are that in December 1985, in an attack by a number of men on the occupants (including me) at my girlfriend's house, I reacted in self defence and one of the perpetrators died. I was acquitted of a charge of murder.
25. I explained the background circumstances in my letter to you on 21 June 2014. I also raised it with the former Minister of Justice and Constitutional Development when I met with him on 21 May 2014.
26. At the time the Minister questioned why I had not disclosed that I had been arrested for murder when I was undergoing my security clearance. I did disclose these facts to the SSA before it refused to grant me a top secret security clearance.
27. The second incident that I suspect is being referred to is an event that took place during October 2012. Briefly, the facts are the following:
- 27.1. Although I cannot remember the exact date, one evening in October 2012 while driving my wife's BMW

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7 *GA*

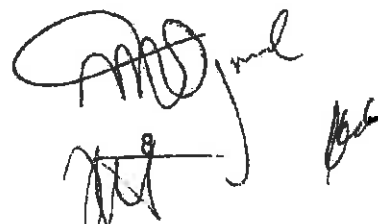
520B along Sydney Road, I was arrested for inconsiderate driving and resisting arrest.

27.2. I was released on R1 000 police bail. The following morning I went to the Durban I Magistrates Court. The senior public prosecutor, Mr Ntuli declined to place the matter on the roll.

27.3. I have laid criminal charges against the police officers that arrested me. I have subsequently learned that two of the police officers are in fact police reservists. That investigation has not yet been finalised.

No justification to suspend

28. The allegations relating to my previous convictions are not serious. There are no outstanding prosecutions against me.
29. My previous criminal convictions do not arise out of my appointment as NDPP, my carrying out my duties as NDPP or the exercise by any employee of the NPA of his or her duties.
30. The facts and circumstances related to my criminal convictions, my acquittal during 1985 for murder and the withdrawal of the September 2013 charge for inconsiderate driving are a matter of public record.
31. They are accessible court files or files held by the SAPS. These investigations were completed almost 30 years ago. There is no need for any additional investigation. And, in so far as the President might want to investigate these matters, they do not involve information held by the NPA, nor do they

The block contains several handwritten signatures and initials. A large, stylized signature is prominent, with the word 'Jurnal' written next to it. Below this, there are several other initials and signatures, including one that appears to be 'Nt' and another that looks like 'Bak'.

person or any information or documents connected to the allegations giving rise to the inquiry.

38. Accordingly, there is no reason why I should not be allowed to continue in my position pending the outcome of the inquiry.

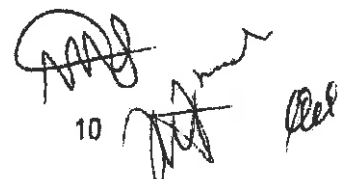
Yours sincerely



/ Mr Mxolisi Nxasana

National Director of Public Prosecutions

Date: 01/08/2014



10

MM 5



02 August 2014

Dear Mr Nxasana

**NOTICE OF INTENTION TO SUSPEND IN TERMS OF SECTION 12(6)(a) OF THE
NATIONAL PROSECUTING AUTHORITY ACT 32 OF 1998**

I refer to your correspondence dated 31 July 2014 and 1 August 2014 addressed to me.

1. Unfortunately my correspondence advising you that I had acceded to your request for an extension was delayed and consequently had not been dispatched prior to receiving your latest correspondence.
2. Should you wish to supplement the representations already made, you may do so by no later than Friday 08 August 2014.
3. I extend my condolences to you and your family and wish you well over this period of bereavement.

Yours faithfully

Mr Jacob G Zuma
President of the Republic of South Africa

Mr Mxolisi Nxasana
National Director of Public Prosecutions
Private Bag X 752
Pretoria
0001