



Office of the State Attorney Pretoria

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27 NOVEMBER 2017

Enquires: G P SELEKA
Email: Pseleka@justice.gov.za

My ref: 8080/2016/Z75
Your ref:

THE DEPUTY JUDGE PRESIDENT
JUSTICE A. LEDWABA
THE HIGH COURT OF SOUTH AFRICA
PRETORIA

Dear Deputy Judge President

**RE: REQUEST FOR THE APPOINTMENT OF JUDGE FOR CASE
MANAGEMENT OF THE MATTER OF CORRUPTION WATCH AND
THE RIGHT 2 KNOW // THE ARMS PROCUREMENT COMMISSION
AND SIX OTHERS: CASE NO: 81368/16**

1. We refer to the above matter and hereby confirm that the legal representatives of the parties involved in the application have agreed to approach Your Lordship with a proposal for an appointment of a Judge for case management.
2. The Applicants, Corruption Watch and Right 2 Know, represented by Harris Nupen Molebatsi Inc Attorneys, launched an application seeking the review and setting aside of the findings of Arms Procurement Commission.

3. The Application was launched in about October 2017. The Respondents in the Application are all represented by the State Attorney, Pretoria. The Applicants have as in the nature of review applications, called upon Justices Willie Seriti NO and Hendrick Mmoli Thekiso Mmusi NO, the chairperson and the Commissioner respectively to deliver a record of proceedings. Due to the duration of the commission and the magnitude of volumes of documents run into thousands of documents which were provided to the commission, the State Attorney filed the record towards the end of March 2017 in an electronic format.
4. The Applicants after going through the record, delivered a notice in terms of rule 30A(1) in the beginning of June 2017 requesting the delivery of further documents which they believe are in possession of the Respondents. The Respondents experienced difficulties in the production and delivery of the further documents sought by the Applicants and the latter ultimately delivered a notice in terms of rule 30A(2) to compel compliance with delivery of further records. These is mainly for two reasons:-
 - a. These documents were not before the commission and as a result are not indexed and paginated. They are also not in a particular order. Hence, to obtain a particular document one has to go through thousands of documents.
 - b. The process is studious and time consuming taking into account that we have other matters to attend to. Respondents have engaged the services of two junior Counsel to assist in this regard in order to expedite the process of complying the request.

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- 3 -

5. The notice to compel compliance in terms of rule 30A(2) was set down for the 27th November 2017. At the hearing of the notice, the Respondents advised of their intention to oppose the application and this led to the removal of the matter from the roll with costs reserved.
6. The parties agreed after the removal of the matter from the roll to refer the matter to Your Lordship for case management. The case management process which we contemplate is to have regular and structured meetings on the direction of the court to regulate the delivery of pleadings and other related matters up to and including possible hearing dates.
7. The parties have in the meantime among themselves agreed to give the Applicant's legal representatives regular access to documents for inspection and identification of the record specified in their rule 30A(1) notice. The process will proceed until the documents have been identified and produced for the purpose of the record.
8. We request your Lordship to consider our request and we will be available to attend a meeting should we be so directed.

Yours faithfully



G P SELEKA

FOR: STATE ATTORNEY (PRETORIA)

CC: Harris Nupen Molebatsi Inc Attorneys
Email: basetsana@hnmattorneys.co.za
dimakatso@hnmattorneys.co.za



Date: 04 December 2017

Our Ref: Ms B Molebatsi

Office of the State Attorney
316 Salu Building
Cnr Francis Baard & Thabo Sehume
Pretoria
Attention: P Seleka / I Chowe

Per email: PSeleka@justice.gov.za / IChowe@justice.gov.za

Dear Mr Seleka and Mr Chowe,

Corruption Watch and Right2Know / The Arms Procurement Commission and Six Others 81368/16

1. We refer to the discussions which took place at the High Court and in particular to paragraph 7 of your letter dated 27 November 2017 to the Deputy Judge President. For ease of reference, paragraph 7 reads as follows:

"The parties have in the meantime among themselves agreed to give the Applicants' legal representative regular access to documents for inspection and identification of the record specified in their Rule 30A(1) Notice. The process will proceed until the documents have been identified and produced for the purpose of the record".

2. In paragraph 4a of your letter, you state that *"The Respondents experienced difficulties in the production and delivery of further documents sought by the Applicants mainly for two reasons,.... These documents were not before the commission and as a result are not indexed and paginated. They are also in a particular order. Hence, to obtain a particular document, one has to go through thousands of documents..."*.
3. Our clients have considered your proposal to allow them *"regular access to documents for inspection and identification of the record"* specified in our clients' Rule 30A(1) notice. Our clients believe that such an exercise may cause further and unnecessary delay. Our clients are entitled to copies of "the record" of the Commission in terms of Rule 53. If

documents "were not before the Commission", then it would appear that they are not part of the record. In that event, no purpose would be served by our clients inspecting them.

4. To summarise, the position is as follows:
 - 4.1. Your clients are required to produce the record of the Commission. It is not for our clients to search through files and attempt to identify what was and was not before the Commission. It is for your clients to say what was before the Commission, and to produce it.
 - 4.2. Our clients require your clients at the very least to produce the documents listed in the annexure hereto, which formed part of the Rule 30A(1) notice. All of those documents self-evidently were before the Commission, because they are referred to in the Report of the Commission. The annexure now includes a column which identifies the place in the Report where reference is made to the listed documents.
 - 4.3. Our clients also require your clients to produce the documents which were provided to the Commission by SAAB: we refer in this regard to Volume 1 of the Report, Chapter 2, section D(1). The documents required include but are not limited to:
 - 4.3.1. SAAB's internal investigation into the 'SANIP issue', with supporting documents provided to the Commission by SAAB;
 - 4.3.2. All agreements entered into between SAAB and SANCO and/or NUMSA;
 - 4.3.3. Minutes of meetings between SAAB and SANCO and/or NUMSA;
 - 4.3.4. All agreements entered into between SAAB and third parties relevant to the SDPP;
 - 4.3.5. All correspondence between the Commission and SAAB;
 - 4.3.6. Any submission or witness statement by SAAB to the Commission.
5. Would you kindly let us have copies of the following as a matter of urgency:
 - 5.1. The further documents which your counsel have identified as part of the record.
 - 5.2. The documents listed in the annexure hereto;
 - 5.3. The documents listed in paragraph 4.3 above.
6. We agree that it is desirable that the DJP should place the further conduct of this matter under case management. We shall also write to him in this regard, and shall copy you on that correspondence.

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CCL

Yours faithfully,

Harris Nupen Molebatsi Inc.

(sent electronically, unsigned)

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Office of the State Attorney Pretoria

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20 MARCH 2018

Enquires: K I CHOWE

My ref: 8080/16/Z75/gk

Email: ichowe@justice.gov.za

Your ref: Sherylle Dass

Messrs Harris Nupen Molebatsi Attorneys

Per fax: 021 423 2975

Dear Sir

Re: CORRUPTION WATCH AND THE RIGHT 2 KNOW // THE ARMS
PROCUREMENT COMMISSION AND SIX OTHERS CASE NO: 81368

We hereby confirm that you may inspect the requested documents at our office
on the 23rd March 2018 at 10H00.

We trust you find the above in order

Yours faithfully


K I CHOWE
FOR: STATE ATTORNEY (PRETORIA)

M
Be

5 April 2018

Office of the State Attorney
Pretoria

Attention: I Chowe / P Seleka

Per email: IChowe@justice.gov.za / PSeleka@justice.gov.za

Dear Mr Chowe and Mr. Seleka,

Re: Corruption Watch and Right2Know / The Arms Procurement Commission and Six Others 81368/16

1. We refer to the above matter and to the inspection of documents by our client which took place at the offices of the State Attorney on 23 March 2018.
2. The inspection relates to documents requested by our clients in the Rule 30A(1) Notice, which formed part of the record of the Seriti Commission.
3. We have been advised that the documents set aside by the State Attorney for the inspection unfortunately did not match the record requested, and as such, the State Attorney agreed to allow our client to inspect the record of the Commission and extract the documents requested by in the Rule 30A(1) Notice over an extended period of time.
4. Our clients have indicated their willingness attend to such inspection at your offices as early as next week Monday 9 April 2018 for such extended period of time, and/or until the requested documents have been located. Please confirm if the proposed date is suitable, otherwise, please propose an alternative date that would be convenient for you.
5. We will confirm the names of the individuals who will be attending to the inspection once the date and time thereof has been provided to us.
6. Please do not hesitate to contact us should you wish to discuss any aspect of this letter.
7. We look forward to your urgent response.



Yours faithfully,

Basetsana Molebatsi

Harris Nupen Molebatsi Inc.

(sent electronically, unsigned)

BM



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08 APRIL 2018

Enquires: K I CHOWE
Email: ichowe@justice.gov.za

My ref: 8080/2016/Z75
Your ref:

Harris Nupen Molebatsi
JOHANNESBURG

EMAIL: info@hnmattorneys.co.za
Basetsana@hnmattorneys.co.za

Sir/Madam

**RE: CORRUPTION WATCH AND THE RIGHT 2 KNOW // THE ARMS
PROCUREMENT COMMISSION AND SIX OTHERS**

1. Your letter dated 05th April 2018 refers.
2. We confirm that your client attended to inspect documents in terms of your Rule 30A(1) request.
3. Records were marked as per that request.
4. Ms Davis set aside some files for copies to be made. We advise that copies have been made and are available for collection.
5. In so far as some documents not matching the request, may you kindly spell out which documents are missing as inspected.

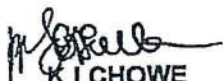
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6. Ms Davis has made a special request that we first finish collecting all requested documents before we schedule another date for inspection. She indicated that she travelled from Cape Town and as a result it would not be cost effective to come for a small portion of requested documents each time. To this end we are targeting the 30th April 2018 and will advise closer to the time.

We hope you will find the above in order.

Yours faithfully



K I CHOWE
FOR: STATE ATTORNEY (PRETORIA)



6 April 2018

Office of the State Attorney
Pretoria

Attention: I Chowe / P Seleka

Per email: IChowe@justice.gov.za / PSeleka@justice.gov.za

Dear Mr Chowe and Mr. Seleka,

Re: Corruption Watch and Right2Know / The Arms Procurement Commission and Six Others 81368/16

1. We refer to the above matter and to the electronic letter received from your offices dated 6 April 2018, with reference number 8080/2016/Z75.
2. We wish to remind you that under Rule 53 you are obliged to produce, and we are entitled to inspect, the whole of the record of the Commission.
3. We remind you that your duty to produce, and our right to inspect, the record are not limited to documents listed in the rule 30A notice.
4. Please take notice that on their own version, the Commission's record includes very many documents which are not referred to in the Rule 30A notice, and thus it is vital that we have access to the whole of the record for inspection.
5. Based on the above, while we are grateful and appreciative of your assistance in identifying documents referred to in the Rule 30A notice, we require an opportunity to inspect the entire record.
6. We again request that you please provide us with a date and time that is convenient for you, when we may conduct our inspection of the documents.
7. Please take notice that we would appreciate if the date provided for inspection could be as soon as possible, preferably as early as next week.

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8. We will confirm the names of the individuals who will be attending to the inspection once the date and time thereof has been provided to us.
9. Please do not hesitate to contact us should you wish to discuss any aspect of this letter.
10. We look forward to your urgent response.

Yours faithfully,

Basetsana Molebatsi

Harris Nupen Molebatsi Inc.

(sent electronically, unsigned)

Chantelle Holthuis

From: Chantelle Holthuis
Sent: Wednesday, 18 April 2018 10:01
To: 'Chowe Isaac'; 'Seleka Peter'
Cc: Basetsana Molebatsi
Subject: RE: Corruption Watch and another / The Arms Procurement Commission and Others: case no 81368/16

Dear Mr Chowe and Mr Seleka,

We refer the below email, and our letter attached thereto dated 6 April 2018.

We request that you please respond to our letter, as aforementioned, as a matter of urgency.

We look forward to your response.

Kind regards,

Chantelle Holthuis



**HARRIS
NUPEN
MOLEBATSI**

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Fax +27 [0] 11 268 0470 | Email chantelle@hnmattorneys.co.za
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P.O. Box 411268, Craighall, Johannesburg, 2024

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From: Chantelle Holthuis
Sent: Friday, 06 April 2018 16:38
To: Chowe Isaac <IChowe@justice.gov.za>; Seleka Peter <PSeleka@justice.gov.za>
Cc: Basetsana Molebatsi <basetsana@hnmattorneys.co.za>
Subject: Corruption Watch and another / The Arms Procurement Commission and Others: case no 81368/16

Dear Mr Chowe and Mr Seleka,

We refer to the above matter, your letter dated 6 April 2018, and to the letter attached hereto for your urgent attention.

Please do not hesitate to contact us should you have any queries regarding the contents of the aforementioned letter.

We look forward to your response.

Kind regards,

Chantelle Holthuis



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A handwritten signature in black ink, appearing to be 'C. Holthuis', located in the bottom right corner of the page.

Chantelle Holthuis

From: Chantelle Holthuis
Sent: Friday, 04 May 2018 09:20
To: 'Chowe Isaac'
Cc: Basetsana Molebatsi
Subject: Corruption Watch and another / The Arms Procurement Commission and Others: case no 81368/16

Dear Mr Chowe,

We refer to the above matter, as well as to the telephonic conversation between yourself and Ms Molebatsi which took place today, on 4 May 2018.

We confirm that you have agreed to send us written confirmation today, 4 May 2018, that we will be granted access to the full record for the above matter, as had been previously requested in our letter dated 6 April 2018.

We look forward to your response, and to receiving the above mentioned written confirmation.

Kind regards,

Chantelle Holthuis



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07 MAY 2018

Enquires: K I CHOWE
Email: ichowe@justice.gov.za

My ref: 8080/2016/Z75
Your ref:

Harris Nupen Molebatsi
JOHANNESBURG

EMAIL: info@hnmattorneys.co.za
Basetsana@hnmattorneys.co.za

Sir/Madam

**RE: CORRUPTION WATCH AND THE RIGHT 2 KNOW // THE ARMS
PROCUREMENT COMMISSION AND SIX OTHERS**

1. We refer to your letter dated 06th April 2018 and the telephone discussion between Ms Molebatsi and Mr GP Seleka on the 04th May 2018.
2. We confirm that almost 2/3 of the work in identifying documents contained in Rule 30A notice has been done. We are now marking them in order of appearance in your notice and at the same finalizing the remainder of the requested documents.

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3. We also enclose a letter dated 06th April 2018 which you aver that you did not receive. In this letter you will see amongst others that a Ms Davis who attended to inspect the files at our offices had advised that we collect all documents requested in terms of Rule 30A before she could come to inspect. Her reason was that she came from Cape Town and that it would not be costs effect to make countless trip bit only one trip and inspect all documents.
4. However, we are willing to make the files available to you once marked

Yours faithfully



K/I CHOWE
FOR: STATE ATTORNEY (PRETORIA)



8 May 2018

Office of the State Attorney

Pretoria

Attention: I Chowe / P Seleka

Per email: IChowe@justice.gov.za / PSeleka@justice.gov.za

Dear Mr Chowe and Mr. Seleka,

**Re: Corruption Watch and Right2Know / The Arms Procurement Commission
and Six Others 81368/16**

1. We refer to the above matter and to the electronic letter received from your offices dated 7 May 2018, with reference number 8080/2016/Z75.
2. We confirm acknowledgement that you have completed identifying two thirds of the documents listed in the Rule 30A notice.
3. We request that this process be complete by 22 May 2018, in order to accommodate our client who will be coming to the view the file at this time.
4. We confirm that our client will require unlimited access to the record which will be completely compiled by 22 May 2018 for a period of up to two weeks, during which they will be able to adequately peruse the documents.
5. Please confirm receipt of this letter, as well as confirming that the task will be completed by 22 May 2018, and thus the record will be available for viewing by our client.
6. We will confirm the names of the individuals who will be attending to the inspection once you have confirmed that the record will be ready for inspection on 22 May 2018.



Chantelle Holthuis

From: Chantelle Holthuis
Sent: Monday, 14 May 2018 10:05
To: 'Chowe Isaac'; 'Seleka Peter'
Cc: Basetsana Molebatsi
Subject: Corruption Watch and another / The Arms Procurement Commission and Others: case no 81368/16

Dear Mr Chowe and Mr Seleka,

We refer the below email, and our letter attached thereto dated 8 May 2018.

We request that you please respond to our letter, as aforementioned, as a matter of urgency, as we have requested that our clients be granted access to the record from 22 May 2018, and the necessary arrangements would need to be made in this regard.

We look forward to your urgent response.

Kind regards,

Chantelle Holthuis



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From: Chantelle Holthuis
Sent: Tuesday, 08 May 2018 15:35
To: Chowe Isaac <IChowe@justice.gov.za>; Seleka Peter <PSeleka@justice.gov.za>
Cc: Basetsana Molebatsi <basetsana@hnmattorneys.co.za>
Subject: Corruption Watch and another / The Arms Procurement Commission and Others: case no 81368/16

Dear Mr Chowe and Mr Seleka,

We refer to the above matter, your letter dated 7 May 2018, and to the letter attached hereto for your urgent attention.

Please do not hesitate to contact us should you have any queries regarding the contents of the aforementioned letter.

We look forward to your response.

Kind regards,

Chantelle Holthuis



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

Date: 31 May 2018

Office of the State Attorney

Pretoria

Attention: I Chowe/P Seleka

Per email: IChowe@justice.gov.za / PSeleka@justice.gov.za

Dear Mr Chowe and Mr Seleka

RE: Corruption Watch and Right2Know / The Arms Procurement Commission and-Six Others 81368/16

1. We refer to the above matter, and to the numerous requests made by our offices to be granted access to the record for inspection. We confirm that:
 - 1.1. In accordance with a request made by ourselves to your offices, our clients were granted access to inspect the record for the above matter on 23 March 2018, at the Offices of the State Attorney;
 - 1.2. We advised you in correspondence from our offices to yourselves dated 5 April 2018, that the documents you had set aside for the inspection unfortunately did not match the record requested, and as such, you agreed to allow our client to inspect the record of the Commission and extract the documents requested in the Rule 30A(1) Notice over an extended period of time;
 - 1.3. In your letter dated 6 April 2018 with reference number 8080/2016/Z75, you indicated that you intended to have all the documents collated by 30 April 2018, and that you would advise us regarding scheduling a date for inspection closer to the time;
 - 1.4. In response thereto, we sent correspondence to your offices dated 6 April 2018, wherein we stated that under Rule 53 you are obliged to produce, and we are entitled to inspect, the whole of the record of the Commission, and requested that you provide us with a date and time suitable for our clients to attend to the inspection of the record;

- 1.5. No response was received to the abovementioned correspondence, and as a result of a telephonic conversation between yourselves and Ms B Molebatsi on 4 May 2018, you sent correspondence from your office to ourselves dated 7 May 2018, wherein you stated that you had completed identifying two thirds of the documents listed in the Rule 30A(1) notice, and that you would make the documents available for inspection once the process had been completed;
- 1.6. In response thereto, we sent correspondence to your offices dated 8 May 2018, requesting that the process of identifying the documents be completed by 22 May 2018, to allow for our clients to attend to the inspection of the entire record; and
- 1.7. To date, we have not received a response to the abovementioned request or correspondence. This undue delay continues to cause prejudice to our clients.
2. As a result of your failure to produce the record despite numerous undertakings to do so, we demand that you make the record available for inspection by our clients within 5 (five) days of this letter, failing which we will have no option but to file our Rule 53 supplementary answering affidavit.
3. We await your urgent response.

Yours faithfully,

Basetsana Molebatsi

Harris Nupen Molebatsi Inc.

(sent electronically, unsigned)

Date: 17 July 2018

Office of the State Attorney

Pretoria

Attention: I Chowe/P Seleka

Per email: IChowe@justice.gov.za / PSeleka@justice.gov.za

Dear Mr Chowe and Mr Seleka

RE: Corruption Watch and Right2Know / The Arms Procurement Commission and Six Others 81368/16

1. We refer to the above matter.
2. We confirm that in accordance with a request made by ourselves to your offices, our clients were granted access to inspect the record for the above matter on 15 June 2018, at the Offices of the State Attorney.
3. We confirm that upon inspection, our clients were given 19 (nineteen) files, having only requested 18 (eighteen) files. Of these files, our clients confirm that many documents appear to be incomplete.
4. As a result of the above, there is concern that the files received from your offices during this inspection may not be in accordance with those that were requested by our client.
5. We hereby request that you make the record available for inspection by our clients within 5 (five) days, so as to ensure that the correct files have been received.
6. We await your urgent response.

Yours faithfully,

Basetsana Molebatsi

Harris Nupen Molebatsi Inc.

(sent electronically, unsigned)

HM
HM

Chantelle Holthuis

From: Chantelle Holthuis
Sent: Wednesday, 25 July 2018 13:56
To: 'Chowe Isaac'; 'Seleka Peter'
Cc: Basetsana Molebatsi
Subject: RE: Corruption Watch and another / The Arms Procurement Commission and Others: case no 81368/16

Dear Mr Chowe and Mr Seleka,

We refer the below email, and our letter attached thereto dated 17 July 2018.

We request that you please respond to our letter, as aforementioned, as a matter of urgency, as we have requested that our clients be granted access to the record, and the necessary arrangements would need to be made in this regard.

We look forward to your urgent response.

Kind regards,

Chantelle Holthuis



**HARRIS
NUPEN
MOLEBATSI**

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From: Chantelle Holthuis
Sent: Tuesday, 17 July 2018 10:39
To: 'Chowe Isaac' <IChowe@justice.gov.za>; 'Seleka Peter' <PSeleka@justice.gov.za>
Cc: Basetsana Molebatsi <basetsana@hnmattorneys.co.za>
Subject: Corruption Watch and another / The Arms Procurement Commission and Others: case no 81368/16

Dear Mr Chowe and Mr Seleka,

We refer to the above matter, and our letter attached hereto for your urgent attention.

We request that you please respond to our letter, as aforementioned, as a matter of urgency.

WA
be

We look forward to your response.

Kind regards,

Chantelle Holthuis



HARRIS
NUPEN
MOLEBATSİ

Tel +27 [0] 11 017 3100 | Cell +27 [0] 83 325 8233
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A handwritten signature in black ink, appearing to be 'CH' or similar initials, located in the bottom right corner of the page.