

To: The Honourable Matamela Cyril Ramaphosa, State President

From: Thembisile Majola, Director-General: State Security Agency

JUDICIAL CORRUPTION IN SOUTH AFRICA
INTELLIGENCE REPORT

1. The State faces an imminent threat of massive damage to its international and local reputation as regards the integrity of its judiciary, and the State Security Agency ('SSA') accordingly recommends immediate intervention to avert it.
2. Your Excellency will recall that in January 2019 the governments of the US, UK, Germany, Netherlands and Switzerland jointly addressed a letter to you calling on you to step up Government's efforts to combat the pervasive, systemic public sector corruption in our country that had become internationally notorious, and which the Judicial Commission of Enquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State ('State Capture Commission') had begun investigating and airing in August the year before.
3. These governments' unprecedented, irregular deviation from diplomatic protocol in writing to you directly underscored the urgency of their concern about the problem and the seriousness with which they regarded it.

4. Pointing up your sensitivity to the negative implications of this public sector corruption and its potential deterrence of foreign investors, your immediate reaction through your spokesperson was to highlight the *'very important and ongoing dialogue taking place amongst South Africans and the investment community'*.
5. Government's subsequent formal answer to these major foreign investors reiterated this prime concern of yours: *'The South African government is intensifying its efforts to deepen and expand economic relations with a number of countries around the world. ... All matters that have been raised by investors are being addressed by the respective clusters of our government. We are satisfied that all the branches of our democratic state, including state agencies, are vigorously pursuing their respective mandates to address our current challenges.'*
6. At the ninth session of the Conference of the States Parties to the United Nations Convention against Corruption in December 2020, your Deputy Minister of Public Service and Administration repeated that *'the country would exhaust all means to fight corruption'*; that it *'was committed to combating corruption in accordance with the UN convention'*; that its initiatives against it were consistent with *'the principles of openness, transparency and inclusion'*; and that it was working *'to create a society where the processes of government administration and procurement were enforced. The public also needed to be educated about corruption and empowered to combat it. She said it was a priority to ensure that whistleblowers received sufficient protection and that public officials were held*

accountable. ... South Africa had also declared zero tolerance for corruption (per *City Press* report, 20 December 2020).

7. In your Tweets on 8 April 2022 reporting US President Biden's call to you about *'the conflict in Ukraine'*, you repeated your concern raised in your and Government's responses to the said five foreign governments' letter: *'As part of deepening relations, we agreed to set up a team to strengthen trade, increase investment in infrastructure'*.

8. Besides some testimony by then-Acting SSA Director-General ('DG') Loyiso Jafta given to the State Capture Commission in January 2021 – corroborated by former Safety and Security Minister Sydney Mufamadi, who had recently chaired a high-level review of the SSA; and further confirmed by declassified documents given to the Commission – about 'Project Justice', a rogue SSA operation to *'deal with the issue of judges'* (per *News24* report, 28 February 2022) for which rogue operation then-Minister of State Security David Mahlobo was allegedly given millions of rands in cash to bribe unnamed judges for factional political ends, at least one of whom was said to be suspected on strong circumstantial grounds of having indeed been paid off, the South African judiciary has been untainted by allegations of corruption to date; and the integrity of our country's judges generally stands uncompromised and unblemished in local and international perception. (As you are aware, the Judicial Service Commission ('JSC') delivered two conflicting decisions in the case of now-suspended Western Cape High Court head Hlophe JP, accused by the Constitutional Court of trying to improperly influence two of its judges in a

pending appeal – one decision condemning him to impeachment and the other acquitting him, indicating the case in that particular matter is not clear-cut.)

9. Our informant, however, Adv Anthony Brink ('Informant'), a High Court advocate of four decades standing, with many years of judicial experience as a district, civil and regional court magistrate, has alerted us to a case of unresolved judicial corruption of unprecedented gravity, in which two heads of court, Dunstan Mlambo JP and Basheer Waglay JP, are conclusively implicated by the documents he has provided us.

10. For reasons set out below, the matter also trenches on the integrity of Chief Justice Raymond Zondo – especially concerning given his current leadership of the country's judiciary and his popular reputation as an anti-corruption crusader acquired as chairperson of the State Capture Commission.

11. And, also explained below, it bears on the integrity of judges serving on the JSC's Judicial Conduct Committee ('JCC') as well, whom the documents reveal to have covered up Mlambo JP's corruption, including by professional retaliation against Informant for duly reporting it.

12. Already battered in public perception after repeated dismal public performances and the loss of several litigations against it in which the courts found it to have acted unlawfully, the JSC likewise stands exposed to a further severe damage to its reputation and depletion of public confidence in it.

13. In sum, unless the matter in question is duly resolved, it threatens a calamitous collapse of trust in our country's judiciary, both locally and internationally.

14. For reasons stated below, it also threatens the hitherto unblemished reputation of the Auditor General ('AG) for commitment to the rule of law, efficiency, and high achievement.

15. Similarly exposed is Legal Aid South Africa ('LASA'), which Informant's thoroughly documented complaints to the AG (canvassed below) show to be extraordinarily corrupt: financially, operationally, ethically, and indeed criminally.

16. The maintenance of foreign confidence in our judges, especially at head of court level, is obviously crucial to Government's '*efforts to deepen and expand economic relations with a number of countries around the world*' (in the language of Government's response to the said January 2019 letter).

17. Likewise essential to this international project is the belief of the State's trading partners and investors that '*all the branches of our democratic state, including state agencies, are vigorously pursuing their respective mandates to address our current challenges*', particularly the problem of endemic corruption in the public sector '*raised by investors*' in their letter, having regard to Government's obligations under the UN Convention Against Corruption); the AU Convention on Preventing and Combating Corruption'; and the SADC Protocol Against Corruption.

18. Faithful to these solemn national obligations imposed by these treaties, you personally assured the South African public on national television in June 2022, in

response to former SSA DG Arthur Fraser's criminal complaint against you in the Phala Phala matter, '*I will continue to fight corruption.*'

19. The matter to which Informant has called to our attention has all the familiar characteristics of a cover-up gone wrong in the classic multiplying, spiralling dynamic of disintegrating intrigues of this kind, beginning with an unremarkable case of everyday recruitment corruption in the form of jobs-for-pals nepotism in a top-level recruitment process for a top-level specialist legal professional post at LASA, which Mlambo JP chaired at the time, in favour of his long-time judicial colleague Mzothwayo Ngcamu, a former acting judge of the Labour Court appointed repeatedly over a period of about six years, in which court Mlambo JP had served and later headed. And as Informant relentlessly probed the obvious irregularity and the transparent bad faith displayed to him in LASA's communications with him as the cover-up commenced, and he duly appealed to increasingly higher authorities for their investigation, intervention, and remediation – ultimately to the Justice Minister and the Justice Portfolio Committee of the National Assembly – this corruption escalated and degenerated into the commission of multiple crimes of dishonesty by then-Board chairperson Mlambo JP and, *inter alia*, by then-Chief Executive Officer ('CEO') Vidhu Vedalankar, National Operations Executive Adv Brian Nair, and Chief Legal Executive Attorney Patrick Hundermark.

20. Unequivocally and incontestably established on the documentary evidence that Informant has provided us, these crimes include:

- multiple ongoing criminal contraventions of the Public Finance Management Act ('PFMA') by LASA's top management executives, committed with then-chairperson Mlambo JP's knowledge and connivance.
- perjury on multiple counts;
- lying by Mlambo JP on multiple counts in a report to the Justice Portfolio Committee to successfully pervert an enquiry it had instituted;
- suborning perjury, including by Mlambo JP;
- 'statutory perjury' (lying on affidavit outside of legal proceedings), including by Mlambo JP in an affidavit provided to an investigating judge of the JCC to pervert his enquiry into the former's criminal misconduct, about which Informant had complained under section 14 of the Judicial Service Commission Act ('JSC Act').;
- defeating the ends of justice by interfering with and perverting the outcome of judicial proceedings through improper influence of a judge of appeal, Waglay JP, by way of an anonymous, unsigned, undated, unstamped 'memorandum' (per its title) – almost certainly forged and uttered by Mlambo JP, Waglay JP's long-time judicial brother and predecessor as Judge President of that court – which criminal 'memorandum' Waglay JP fatally left in the court file for Informant to discover by chance some months later during his search for other court records (see below) while investigating Waglay JP's manifestly irregular, premature disposal of his petition for leave to appeal before all the prescribed papers had been filed and the matter was ripe for

decision, and without the participation and knowledge of the two other appeal judges falsely and fraudulently alleged to have concurred in Waglay JP's dismissal order.

21. Hugely aggravating the said two Judge Presidents' judicial and extra-judicial corruption, including their crimes, is the following:

22. Notwithstanding Informant's closely detailed, substantiated affirmed complaints lodged with the JCC in mid-2017, it has failed to hold the two grossly delinquent Judge Presidents to account.

23. Six-and-a-half years later, Informant's documented impeachable complaint of judicial corruption against Waglay JP has yet to be decided, despite Informant's repeated provision of replacement copies of his complaint at the JCC's repeated request after the acknowledged original and the acknowledged first copy got lost; and despite four consecutive letters addressed to the Chief Justice and to the Deputy Chief Justice, in which Informant repeatedly protested the JCC's failure to have determined the complaint and entreated that that it be decided at last.

24. JSC records obtained by Informant via litigation under the Promotion of Access to Information Act ('PAIA') reveal that his exceptionally serious complaint against Waglay JP – for violating his judicial oath by acceding to illegal improper influence and corruptly throwing a case – was allocated to Cape High Court Deputy Judge President Patricia Goliath for decision. By unlawfully and disgracefully failing to

determine it and hold Waglay JP accountable, she has practically given him and his impeachable misconduct a free pass.

25. Goliath DJP's dereliction in this regard grossly flouts the timeframes prescribed by the Code of Judicial Conduct. Although not binding on judges performing administrative functions off the bench, the Code nonetheless provides a guideline for the disposal of judicial misconduct complaints within a reasonable time, and it affords a judge three months to decide a civil dispute, and six months at most in the case of complex or voluminous matters. Goliath DJP's decision of Informant's impeachable complaint against Waglay JP has been outstanding for very many years.

26. Other JSC records, which Informant disgorged from the JSC by litigating for them, reveal that JCC members Goliath DJP and Visvanathan Ponnien JA (on the Supreme Court of Appeal) directed that Informant's capital complaints against Mlambo JP should be disposed of merely under section 17 of the JSC Act, which governs non-impeachable complaints.

27. We have studied these complaints, *inter alia*, that Mlambo JP filed a dishonestly false report to the Justice Portfolio Committee to successfully pervert its parliamentary enquiry instituted at Informant's instance (a) into recruitment corruption at LASA, in which Mlambo JP was centrally involved, and (b) into LASA's persistently obstructive, wilful non-compliance with PAIA to illegally and unconstitutionally suppress further evidence of this recruitment corruption, in

which obstruction Mlambo JP was also involved, and it is obvious to us that an honest reading of the complaints is entirely incompatible with Ponnen JA and Goliath DJP's purported finding that they are non-impeachable.

28. Four years after Informant filed his complaints against Mlambo JP, JCC member and Supreme Court of Appeal judge Zondi JA delivered a '*patently dishonest judgment*', barely touching sides with the issues and the evidence before him, in which he glibly dismissed the complaints. (*Per the language of retired Constitutional Court judge Johann Kriegler on CapeTalk radio on 1 March 2021, condemning Hlophe JP's dismissal of the State's case against former Minister of Safety and Security Bongani Bongo on a charge of bribery; see CapeTalk's written report at bit.ly/3Ivxx1u.)

29. This is after Informant's complaints were originally allocated to then-JCC member Molemela JA (according to JSC records sourced by Informant via PAIA litigation), who neglected to decide them. Nearly a year passed before the undecided complaints were then reallocated to Zondi JA – in a further dreary illustration of the Supreme Court of Appeal's judges' characteristic disinclination as members of the JCC to discipline their fellow senior judges for extreme misconduct.

30. On 10 December 2021, the JCC appeal committee met at the Constitutional Court to consider Informant's appeal against Zondi JA's clearly insupportable dismissal of his complaints, following which it reserved its decision (according to the

JCC secretary's information to Informant); and nearly two years later, the JCC appeal committee has yet to deliver a decision in the matter.

31. According to the JCC secretary's further information to Informant, obtained via PAIA, the JCC appeal committee members seized with Informant's appeal are Constitutional Court judges Elizabeth Nkabinde and Ephraim Makgoba, and High Court judge Margaret Victor.

32. Like Goliath DJP in the Waglay JP case, Judges Nkabinde, Makgoba and Victor have scorned their obligation to determine Informant's appeal with reasonable expedition, and their conduct speaks again to the JCC's judges' consistently demonstrated reluctance to hold their delinquent judicial colleagues to account and their pattern of covering for them in scandalously illegal breach of their basic disciplinary duties.

33. Victor J is a member of the Gauteng Division headed by Mlambo JP and is directly subject to his authority as court administrator, such as in the important matter of case allocations, and her vulnerability to potential workplace reprisal by him upon his return to that court from his acting position on the Constitutional Court arguably disqualifies her from impartially deciding the appeal and bringing him to book.

34. Regarding (a) Ponnen JA and Goliath DJP's directive that Informant's impeachable complaints against Mlambo JP be dealt with merely under section 17 of the JSC Act, and (b) Zondi JA's very obviously insupportable dismissal of them, it

bears mentioning that this is nothing extraordinary in our country: There are two recent baleful precedents for senior judges failing to apply their minds properly to exceptionally important enquiries and disputes that they have been entrusted to conduct and decide, and for seeking to dishonestly sweep them under the carpet.

35. The High Court set aside the clearly untenable finding made by Seriti JA (retired) that there was no evidence of corruption in the Strategic Arms Package on the basis that *'the enquiry and investigation that [he] was called upon to undertake never materialised.'* Just as Zondi JA did in similarly dismissing Informant's squarely documented complaints, Seriti JA (ret.) *'failed manifestly to enquire into key issues as is to expected of a reasonable [judge]'*; evinced *'a refusal to take account of documentary evidence'*; and conspicuously failed to determine the complaints *'with a clear and open mind'*.

36. Indeed, for Seriti JA's disgraceful dereliction of his most basic responsibilities as senior commissioner in the Arms Deal enquiry as the High Court found on review, a gross misconduct complaint against him is currently pending before the JCC.

(Informant has recorded his intention to proceed against Zondi JA likewise after his appeal is upheld by the JCC appeal committee or by the High Court on review.)

37. Chief Justice Zondo himself casually admitted in paragraph 2373 of Part Four of his State Capture Commission's report that *'due to its enormity'* he had not actually studied former ESKOM Acting CEO Matshela Koko's *'6th affidavit'* and all its supporting *'annexures'* (implicitly because he had decided prejudicially that it

was not worth his time and trouble to do so) and that his '*methodology ultimately adopted*' therefore was to merely to '*approach*' Koko's finely detailed, documented allegations '*on a theme basis, by commenting on related paragraphs collectively, as opposed to ad seriatim*', before proceeding to condemn Koko as corrupt – at the same time wholly disregarding his detailed evidence of how Glencore corrupted ESKOM by getting paid twice or thrice the price of coal of the same quality that other suppliers were paid, and getting relieved, without lawful authority, of its obligation to pay billions of rands in penalties: cogent evidence of bribery and corruption, which Glencore practically admitted in its subsequent guilty plea to federal charges in the US and its agreement to pay enormous fines for conducting *inter alia* a '*foreign bribery scheme*', in the language of US Attorney General Merrick Garland, announcing this on 25 May 2022. (As you know, Zondo CJ's egregious neglect to consider Koko's evidence about this was the most basic failure of his State Capture Commission, which had been established primarily to investigate the extreme corruption of ESKOM and its consequent collapsing ability to deliver power, such as Koko finely detailed to the Commission in his affidavits.)

38. We have scrutinized Informant's similarly voluminous complaints against Mlambo JP with all their supporting documents, and it is clear to us that like Zondo CJ's indefensibly cavalier '*approach*' to Koko's affidavit, without heeding its damning contents, Ponnen JA and Goliath DJP could not properly have studied Informant's very obviously impeachable complaints against Mlambo JP before directing that they be treated as non-impeachable under section 17 of the JSC Act.

39. We have likewise studied Zondi JA's decision dismissing the complaints in light of Informant's appeal notice comprehensively taking it to pieces, and it is equally obvious to us that Zondi JA did not study the issues carefully and weigh the evidence properly before delivering his decision; and it is certain to be reversed, either by the JCC appeal committee or on review of the latter's decision by the High Court.

40. Informant's complaints against Mlambo JP and Waglay JP; their responses; Informant's invited comments on their responses; and all further documents in his appeal in the Mlambo JP case are publicly accessible at his website corrupt-judges.co.za, headed 'The Corruption of the South African Judiciary'.

41. Bearing out the ancient Greek proverb, 'The Law is a web only for small flies; the wasps burst through', the Mlambo JP and Waglay JP cases demonstrate that contrary to Government's mollifying assurance given to the above-mentioned five governments in January 2019, the JSC and its JCC have clearly not been '*vigorously pursuing their respective mandates to address our current challenges*' of documented corruption in the top ranks of the South Africa judiciary. Quite the contrary, in the case of Mlambo JP and Waglay JP's comprehensively documented, proven corruption, this hollow assurance to these governments has been absolutely false.

42. The reason for the JCC's disinclination to hold Mlambo JP and Waglay JP to account for their documented, impeachable misconduct detailed and vouched in

Informant's complaints against them may be traced to the facts that Mlambo JP was a ranking member of the JSC at the material time, and there are multiple cogent indications, enumerated by Informant both in his complaint against Waglay JP and in his first complaint against Mlambo JP, that in violation of section 165(3) of the Constitution, which prohibits any person or organ of state from interfering in the functioning of the courts, it was none other than then-LASA Board chairperson Mlambo JP who drew and surreptitiously passed to Waglay JP, his long-time former colleague in the Labour and Labour Appeal Courts, the criminal 'memorandum' that Informant found in the court file, denigrating him and lying about the issues in his case against LASA to corruptly influence Waglay JP to summarily dismiss Informant's petition (a) without duly considering it, (b) before all prescribed affidavits had been filed and the matter was ready for adjudication, and (c) without the concurrence of the two other appeal judges falsely named in the fraudulently issued dismissal order.

43. That is, Mlambo JP was both strongly motivated and powerfully placed to frustrate the JCC's disciplinary proceedings against himself and against his long-time close judicial colleague Waglay JP. (Indeed, on 3 February 2022 Mlambo JP told the JSC at his unsuccessful interview for the Chief Justice post that Waglay JP had very amiably telephoned to urge him to apply for the presidency of the Labour and Labour Appeal Court when it fell vacant.)

44. Not only is there no record in the court file or inscribed on its cover – *i.e.* no signatures under 'I agree' or similar – vouching that Davis and Sutherland JJA

considered the matter and concurred in Waglay JP's unlawfully premature, irregular and obviously indefensible decision – without regard to its merits, and animated by the said criminal instrument to dismiss the case before all the prescribed papers were in and a pending interlocutory application by LASA had been decided – court records prove moreover that the three appeal judges named in the order were in different cities on the date the order falsely alleges they sat to consider the petition and unanimously rejected it.

45. In further massive aggravation of this matter, records of the Society of Advocates of KwaZulu-Natal ('the Society') shockingly turned up by Informant's broadly framed PAIA requests aimed at other records reveal that for complaining of Mlambo JP's gross misconduct the JSC retaliated against him behind the scenes in twice urging the Society to apply to court to get him disbarred as an advocate, long before the JCC had even considered his complaints against the said judge and decided whether they were merited or not.

46. The spurious basis of this corruptly motivated counter-attack on Informant, originally made by LASA (then chaired by Mlambo JP) to destroy him professionally and discredit him personally as complainant about the judicial and other corruption that he had reported, was that he had allegedly falsely and unprofessionally impugned Mlambo JP's integrity in his several litigations against LASA and again in his several formal complaints against him to the JCC – even as he had duly pleaded his case implicating Mlambo JP in his several Labour Court, Labour Appeal Court, and High Court litigations, and had duly lodged his complaints

against him under section 14 of the JSC Act in accordance with then-Chief Justice Mogoeng's repeated public exhortations that anyone with real evidence of judicial malfeasance should present it for investigation.

47. Informant's comprehensive final response to LASA's malicious complaint against him to the Society is accessible at illegal-aid.co.za/LPC. (Years later, the complaint has yet to be decided by the Legal Practice Council ('LPC'), which had inherited the unresolved complaint from the Society under the provisions of the Legal Practice Council Act.)

48. Consistent with Mlambo JP's profound judicial and ethical turpitude mentioned above, we have several pieces of specific, reliable intelligence obtained from Informant that for private reasons that are both personally scandalous and grossly professionally unethical Mlambo JP has repeatedly favoured certain females (a) for appointment to and/or promotion within the judiciary; (b) for promotion within LASA; and (c) for appointment to the first JCC tribunal the JCC convened to try the Constitutional Court's complaint against Hlophe JP. (The last two cases involve the same young woman, Noxolo Maduba.)

49. During his nationally televised interview for the Chief Justice post in February 2022, no less than four JSC commissioners taxed Mlambo JP about reports of sexual misconduct circulating about him. Commissioners Dali Mpofu SC and Julius Malema MP were both explicit in putting to him information they had received that he had rewarded '*sexual favours*' from female lawyers with acting appointments in

his Division. (It is not known whether Commissioner Jennifer Cane SC had this in mind when cooing over Mlambo JP as someone of whom *'people are very fond'* and obsequiously tossing her soft-ball questions contrived to advance his prospects of being recommended, and her own of getting appointed by him to act in his court as a stepping-stone to a permanent job.)

50. All interrogation of Mlambo JP's moral character was subsequently expunged from the interview record, but only because he had not been given advance notice that he would be questioned about it, and those several commissioners who taxed him about it did not specify particular instances for him to address.

51. In fact Mlambo JP's habitual private misconduct in this regard was already notorious within the judiciary. At his said interview he mentioned that a retired judge had recently contacted him regarding a rumour about it; and three weeks later on 23 February the *Daily Maverick* reported that Mandisa Maya P (as she then was; then head of the Supreme Court of Appeal; now Deputy Chief Justice) had also raised Mlambo JP's private-professional sexual misconduct with at least two *'influential persons ...on separate occasions ... one case last year before the call for nominations and the second about a month ago'*, both of whom confirmed it to the journalists investigating this. (Tellingly, when asked to do so, Maya P firmly declined to admit or deny that she had repeatedly raised this matter as alleged – indicating her confidence in the truth and reliability of the information she had received about it and had twice shared.)

52. Informant advises us that he also has his own specific information independently and reliably sourced from within the judiciary about two females fixed permanent appointments as judges, and about the preceding private but known disgraceful circumstances involving Mlambo JP and these women.

53. Mlambo JP's same grossly unethical personal proclivity as a judge was also already notorious at LASA. Informant advises us that a former national management executive identified two female employees to him in this connection: the said Ms Maduba, and one 'Veronica', whom he was instructed by Mlambo JP to promote to a more senior position at LASA after spending the weekend at a conference that he addressed and she attended, evidently as a *quid pro quo* for personal favours, since she had not applied, been shortlisted, interviewed, and selected and recommended for any such post, and the post Mlambo JP specified to the executive did not even exist at the centre in question.

54. This former national executive told Informant that when he complained about this outrageous, immoral, illegal instruction to his senior executive colleagues at LASA, they did nothing about it, seemingly because Mlambo JP was the boss of LASA and deemed entitled to enjoy the prerogatives and perks of his position, to do whatever he liked after hours with whomever he liked, and to apply state resources (detailed to Informant) to reward intimate conversation with the ladies that he fancied as he saw fit.

55. The said former executive told Informant that Mlambo JP's well-known illicit relationship with Ms Maduba had the serious negative effect of depressing staff morale at the legal centre under his supervision.

56. During Mlambo JP's interview for the Chief Justice post, JSC commissioner Mpofu SC pointedly asked him to provide his '*assurance*' to the JSC that '*should [he] be appointed Chief Justice*' there would be '*no surprises*' about this in the future, not the '*slightest risk of*[the issue of his sexual misconduct] *resurfacing*', that '*may embarrass the country*'. With reckless indifference to the potential damage to the country's reputation that his compromising immoral and professionally unethical behaviour threatened, Mlambo JP responded by dishonestly by waving the matter away.

57. In truth and in fact, the just-mentioned scandal involving Ms Maduba – a former employee of LASA who rocketed through its managerial ranks during Mlambo JP's command of the organisation; then resigned just ahead of a disciplinary enquiry set to try her on a charge of gross dishonesty; then, while unemployed, got fixed an appointment as a member of the first tribunal convened to try Hlophe JP, while Mlambo JP was a ranking member of the JSC; then abruptly resigned when Hlophe JP vehemently objected to her appointment on account of her '*inappropriate sexual relationship*' with Mlambo JP (in the language of Hlophe JP, conveying this to Informant by telephone) '*to avoid an unseemly scandal*' (in the language of then-JSC secretary Sello Chiloane, also conveying this to Informant by telephone) – is precisely the subject of litigation pending in the Pietermaritzburg

High Court to compel the JSC's surrender of duly requested records in this connection; see the papers online at illegal-aid.co.za/JSC/PAIA/Application.

58. Although Mlambo JP was not ultimately appointed as Chief Justice, the Maduba matter (canvassed further below) will most certainly '*embarrass the country*' when it is eventually ventilated.

59. We should mention incidentally here that the use of *kompromat* to coerce high-level public officers is a tool well known in the international intelligence community, and alerted by the JSC's persistent questioning of Mlambo JP on his alleged vices at his nationally broadcast interview in February 2022, it is not inconceivable that a foreign or other hostile party might hunt out particulars of his misconduct from one or more of his adversaries and use this *kompromat* to extort him and corrupt his work as a judge.

60. Informant's objection to Mlambo JP as a person unfit for appointment as Chief Justice, delivered to Your Excellency's office, was reported by the *Daily News* as its front-page headline story on 21 October 2021, and IOL has since posted the article online. The newspaper simultaneously reported an unrelated, separate and independent serious objection filed by the prominent socio-economic rights litigating NGO and public interest law firm Limpopo Legal Solutions (repeatedly successful in its cases before the Constitutional Court). Informant's and Limpopo Legal Solutions' objections and the *Daily News* article about them, as well as the full text of

Informant's objection published online by Africanewsglobal.co.za, are posted and linked at illegal-aid.co.za/JSC/Mlambo_JP/Objection.

61. What this means is that some of this atrocious information about Mlambo JP's repeatedly demonstrated complete lack of any personal and professional integrity – potentially extremely detrimental to the local and international reputation of the South Africa judiciary should it be publicised – is already in the public domain and readily accessible to anyone running a search on his name.

62. Informant advises us that the journalist who wrote the said *Daily News* article complained to him in disgust at Mlambo JP's crass and shameless mendacity that when she duly telephoned him for his comment before going to print – using his cellphone number that Informant had just obtained for her from one of Mlambo JP's judicial colleagues (because she could not get through to him on his court's landline), which cellphone number was confirmed to Informant later in the day by a senior advocate in Cape Town who had used it in his text message exchanges with Mlambo JP – Mlambo JP twice lied to her in denying that she had reached him on his cellphone, dissimulating that she had '*the wrong number*' and that it was not him speaking on the other end, before finally abandoning this lying pretence of his when she called him a third time on the same number (from a different phone?), and now expressly declined to comment on the objections filed against him, saying he had given his responses to the JSC and had nothing further to say.

63. In light of the extraordinary gravity of Informant's allegations and the volume of the documents he provided us in support of them, we referred the matter to a team of highly qualified in-house intelligence analysts, as well as to our external assets in legal academia and the legal profession ('consultants'), for in-depth investigation and thorough assessment.

64. After studying and evaluating Informant's allegations – having due regard to the principle that extraordinary claims require extraordinary evidence – our analysts and consultants have unanimously confirmed that they are all irrefragably well-founded on the black letter of the records adduced to substantiate them.

65. Informant's intentions in this matter have been declared in two documents filed with the JSC, namely to call the unresolved judicial corruption of which he duly complained to the JCC in mid-2017, and the JSC's failure to diligently and honestly address and resolve it, to the court of public opinion, by reporting it to the five major foreign investors and trading partners who wrote to you about runaway public sector corruption in January 2019; to the attention of our country's BRICS partners and aspirant BRICS+ member countries: Afghanistan, Algeria, Argentina, Bangladesh, Egypt, Indonesia, Iran, Kazakhstan, Malaysia, Mexico, Nicaragua, Nigeria, Pakistan, Saudi Arabia, Senegal, Sudan, Syria, Thailand, Türkiye, and United Arab Emirates; to other likely interested governments including those of the G20 not already mentioned; to the African Union; to the world's top three international credit rating agencies; to all Opposition parties in Parliament; to all Supreme Court of Appeal and Constitutional Court judges, and High Court judge

presidents; and to multiple other interested and influential parties, including the NGOs Accountability Now, Afriforum, Ahmed Kathrada Foundation, Black Sash, Corruption Watch, Council for the Advancement of the Constitution, Freedom Under Law, Helen Suzman Foundation, Institute for Security Studies, Judges Matter, Open Secrets, Organisation Against Tax Abuse, Sakeliga, Thabo Mbeki Foundation, and Whistleblower House. And to all major local and international media groups, investigative journalism centres, and social media platforms.

66. As noted above, this unresolved judicial corruption is massively aggravated by (a) the scandalous, deliberate failure of the relevant '*branches of our democratic state, including state agencies*', namely the JSC and its JCC, to '*vigorously pursu[e] their respective mandates to address our current challenges*' of corruption festering in the upper echelons of the judiciary, despite Informant's multiple pleas for resolution of his complaints, by way of four successive letters, the first two addressed to then-JSC chairperson Mogoeng CJ (now retired), who would have passed them for action to then-JCC chairperson Zondo DCJ (as he then was; now Chief Justice and chairperson of the JSC *ex officio*), and the second two written directly to then JCC chairperson Zondo DCJ (as he then was); and (b) by the JSC's documented repeated attempts to professionally assassinate, discredit, financially ruin, and thereby destroy Informant personally in reprisal for duly reporting the said judicial corruption to the JCC, namely by urging the Society to apply to the High Court for his strike-off as an advocate, even before Mlambo JP was asked to respond to Informant's documented complaints, and then again urging this before

his complaints had been decided by the JCC on all the prescribed papers, on the basis of the false and malicious charge that Informant had falsely, unjustifiably, unprofessionally and disgracefully complained about Mlambo JP and Waglay JP's gross misconduct – whereas in truth and in fact, as our intelligence analysts and consultants have unanimously confirmed upon a thorough examination and assessment of all the relevant documents, Informant's complaints about these top judges' capital, impeachable transgressions are well-founded and incontestably sound.

67. All this contradicts Government's claims made to the Conference of the States Parties to the UN Convention against Corruption in December 2020 that it '*was committed to combating corruption in accordance with the UN convention*'; that '*South Africa had also declared zero tolerance for corruption*'; and that '*it was a priority to ensure that whistleblowers received sufficient protection and that public officials were held accountable*'.

68. Quite the contrary in the latter regard, and flying in the face of JSC commissioner Narendra Singh's concern expressed during Mlambo JP's interview for the Chief Justice post that whistleblowers must be protected, Informant was viciously targeted for severe personal and occupational detriment for duly complaining of Mlambo JP and Waglay JP's corruption, leaving him practically ruined, even as the JCC has practically let these phenomenally corrupt judges off scot-free.

69. This mammoth corruption scandal is likely to be of particular interest to the *Sunday Times* in light of its editorial on 29 January 2023: 'Protect our whistleblowers – vulnerable heroes on the frontline against corruption'.

70. Informant advises us that he will also be informing the foreign government embassies and other interested influential parties enumerated above about '*our current challenges*' of top-level corruption at LASA (peremptorily chaired by a judge under the Legal Aid Act) which continues to impede critical service delivery to the most vulnerable citizens of our country, to wit: Three budgeted and funded, critical-category, specialist legal-professional Senior Litigator posts, created at the special instance of Parliament's then-Select Committee on Safety and Security, and which its succeeding Justice Portfolio Committee is on record stating that it is particularly concerned to see filled, have deliberately and illegally been left vacant for seventeen years now since their creation in November 2006 due to recruitment corruption at LASA and an attempt to cover this up under a manifestly dishonest financial insufficiency excuse advanced to Informant, to the Justice Minister, to the Justice Portfolio Committee of the National Assembly (a crime), and to the courts (a crime) – a lying cover-story flatly contradicted (a) by LASA's own financial records, showing that in truth and in fact the posts have always been budgeted by LASA and funded by the Treasury via the Justice Department upon the annual budget vote of the National Assembly, and still are; (b) by the absence of any record of any decision taken not to fill the posts for this alleged financial reason, or for any other; and (c) by other totally different, mutually exclusive and destructive lying

cover-stories advanced to LASA's Board and to the courts for why these now very long-vacant, critical, budgeted and funded posts have not been filled – lies told to the Board and to the courts that are totally different from the budgetary insufficiency lies that Mlambo JP told the Justice Minister and Justice Portfolio Committee to pervert their enquiries – despite the selection and recommendation of duly qualified and experienced candidates for appointment to the top posts. (Indeed, one of these candidates, Bongani Mngadi, has since been appointed as a judge on the KwaZulu-Natal bench.)

71. As the Constitutional Court confirmed in principle in *Zungu v Premier of the Province of Kwa-Zulu Natal and Others* (2018) 39 ILJ 523 (CC), in failing to fill these budgeted and funded posts since 2006, LASA has brazenly contravened and continues to brazenly contravene the PFMA year after year.

72. These foreign government embassies and other interested and influential parties will further be told how LASA (actually Board member and Chief Legal Executive Patrick Hundermark) corruptly moved to quash and defeat Informant's continuing investigation of the top-level recruitment and financial corruption that he had unearthed at LASA, and of the several crimes its top officers (including Hundermark) had committed in trying to cover it up, by attempting to interdict Informant's access to LASA's financial and other records that he had duly requested under PAIA, and for which he had sued after the records were illegally and unconstitutionally refused (by Hundermark, in others' names).

73. More specifically: In court, moments before Informant's argument in support of his first five claims to access the records he had duly requested (all five applications set down together on the same day), LASA (*i.e.* Hundermark, instructing LASA's counsel via his cellphone) totally capitulated, reversed its (his) illegal and unconstitutional refusals to allow Informant access to the requested records after years of deliberate, indefensible delay, and agreed to hand them all over, together with a final tranche of documents identified in the settlement agreement – and then reneged on this total surrender treaty; continued concealing many of the said documents that Informant had sued for and that LASA (Hundermark) had formally pledged to hand over, including the most important of them; vexatiously opposed Informant's application to compel LASA to honour and comply with its settlement agreement, even as it continued dribbling out further documents in two successive batches under pressure of Informant's set-downs; and then maliciously and vexatiously counter-attacked Informant with an application to the High Court at Pietermaritzburg to interdict him (a) from accessing any more of LASA's records, including those LASA (Hundermark) had pledged in the settlement agreement; (b) from proceeding with his new application under PAIA pending in the High Court to compel LASA's (Hundermark's) surrender of those records it (he) had illegally and unconstitutionally suppressed in breach of the settlement agreement; and (c) from ever approaching the courts for relief in the future, in the exercise of his fundamental rights entrenched by section 34 of the Constitution, on the fake basis alleged that he was a vexatious litigant.

74. In other words, exactly contrary to the declamation by your Deputy Minister of Public Service and Administration to the UN Convention against Corruption in December 2020 that ‘*The public also needed to be educated about corruption and empowered to combat it*’ and the value Government placed on ‘*the principles of openness, transparency and inclusion*’, LASA (Hundermark) corruptly attempted (a) to block Informant’s access to LASA’s records to which he was constitutionally entitled, so as to prevent him *educating* himself further about the full extent of the *corruption* at LASA that he had already uncovered, thereby violating LASA’s constitutional information *transparency* obligations imposed by section 32(1)(a) of the Bill of Rights in Chapter 2 of the Constitution, and (b) to *disempower* him from *combating* this *corruption* by getting him banned from the courts as a vexatious litigant, like a person listed by the Minister of Justice in the *Government Gazette* during apartheid.

75. In so doing, LASA (Hundermark) contemptuously traduced Government’s goals declared to the UN in this regard.

76. LASA’s (Hundermark’s) corruptly-driven, malicious application to have Informant declared a vexatious litigant, launched with the object of quelling his further investigation of the corruption he had encountered at LASA, and of maintaining its cover-up by withholding key records, was quickly dismissed by the judge (Vahed J) who tried the case. Indeed, the record of proceedings reflects that after LASA’s counsel resumed his seat upon completing his hopeless argument, the judge signified his recognition that LASA’s case was transparently vacant both in

fact and in law by relieving Informant as respondent of the need to get up and argue against it ('No need to hear you') before dismissing LASA's (Hundermark's) utterly baseless case.

77. The papers in LASA's (Hundermark's) abortive, malicious, vexatious application against Informant are accessible at illegal-aid.co.za/VPA.

78. If at first blush the atrocities, the corruption, and the criminality reported herein sound outlandish, Your Excellency will recall that TELKOM was universally considered a paragon of good corporate governance until 25 January 2022 when you amazingly '*signed Proclamation R. 49 of 2022, authorising the Special Investigating Unit (SIU) to investigate allegations of corruption and maladministration in the affairs of Telkom, South Africa's wireline and wireless telecommunications provider, and to recover any financial losses suffered by Telkom and the State through civil litigation*' (per SIU media statement the next day).

79. Likewise, it was revealed to the State Capture Commission the following month that South African Airways' financial affairs had been certified perfectly in order for five years in a row by its then-external auditor PwC – until the AG went in to examine its books and found them not squeaky clean as falsely declared by PwC but utterly '*shambolic*' instead (per *Citizen* news report, 20 February 2022).

80. For many years, the same external auditor PwC equally falsely certified LASA's accounts as being in good order, despite LASA's illegal failure since 2006 to have filled three out of nine of its critical, budgeted and funded Senior Litigator posts at

the top of its legal professional ranks, involving under-expenditure* of many millions of rands and deliberate public service denial for nearly two decades. (*The AG treats under-expenditure by public entities as a species of unlawful expenditure.)

81. Generally considered the jewel in the crown of the Justice Department, LASA has repeatedly trumpeted its clean audits reports issued by the AG, and has been praised for these spotless audits in Parliament and elsewhere.

82. The documents that Informant has provided us show contrariwise that LASA is profoundly corrupt and non-compliant with the PFMA, and that its top officers, including its then-chairperson Mlambo JP, have committed multiple crimes in covering it up.

83. In short, along with the judiciary, the JSC, and the AG, public confidence in LASA – the biggest public law firm in Africa, as it vaunts itself – is poised to collapse.

84. These foreign government embassies, the African Union, credit rating agencies, and other interested and influential parties will also be informed about the stunning unlawful indifference of the current AG, Ms Tsakani Maluleke, to LASA's said ongoing, major breaches of the PFMA, hugely prejudicial to the indigent and especially vulnerable public, as well as to LASA's top officers' criminal contraventions of that Act and many other documented crimes committed in covering up the said recruitment corruption – all finely detailed and

comprehensively documented in Part One of Informant's affirmed complaint about it to the AG in 2020, amplified by two successive affirmed addenda, followed by twelve ironclad affirmed criminal complaints against former LASA CEO Vidhu Vedalankar submitted to the AG, also precisely and fully founded on supporting documents annexed to them. Informant's complaints to the AG are accessible at illegal-aid.co.za/AG.

85. The said foreign and local audience will be told that after studying Part One of Informant's said first complaint to the AG, Adv Marissa Bezuidenhout, a member of the AG's national management executive committee, responded by conveying her alarm to him about this clearly established, just-mentioned rampant financial and criminal corruption at LASA; undertook to draw a summary report for immanent personal discussion with then-AG Kimi Makwetu; and duly referred the matter to the AG's Investigations unit for a special audit of LASA.

86. Following the death of then-AG Makwetu soon afterwards, however, his successor Ms Maluleke strangely decided to shelve the matter unresolved.

87. AG Maluleke's studied indifference to LASA's continuing contravention of the PFMA by not filling three out of nine of its critical, budgeted and funded, high-level expert litigation posts at the summit of its legal professional staff establishment – for well over a decade-and-a-half now – is especially inexplicable considering that her office had recently raised in its annual audit report on LASA its unlawful

failure to have filled several other budgeted and funded posts – non-critical, lower-tier posts – also in contravention of the PFMA.

88. In wilfully indolently failing to perform her legal responsibilities in the case, AG Maluleke has effectively turned a blind-eye to the corruption at LASA that Informant duly reported to her predecessor and proved with supporting documents – in stark contrast to Adv Bezuidenhout’s well-founded concern and her commendably professional response to it. And by winking at the clear and indisputable gross illegalities at LASA, including crimes, pertinently called to her attention, AG Maluleke has allowed them to continue unchecked and unpunished.

89. In other words, the office of the AG currently led by Ms Maluleke, unlike under the leadership of the late Mr Makwetu, has like the JSC become yet another of those ‘*state agencies*’ that have failed to ‘*vigorously pursu[e] their respective mandates to address our current challenges*’ of corruption in the public service, inasmuch as Ms Maluleke has deliberately and illegally failed to pursue LASA’s top officers’ criminal and other serious contraventions of the PFMA reported in Informant’s minutely particularised and documented complaints about them; and she has continued issuing LASA with false clean annual audit reports, in the teeth of the documentary proof set in front of her of ongoing grave wrongdoing in the organisation.

90. The result is that as recently as January 2023, LASA Chief Legal Executive Hundermark could mendaciously swear to the propriety of LASA’s finances in an

affidavit filed in the High Court by boasting – truthfully on its face, but criminally deceptively in substance – that the AG had awarded LASA twenty-one consecutive clean audit reports. Thus perjuringly misleading the court.

91. Under this undeserved shine stinks the rotten fact, unreported by the AG year after year, that LASA's three remaining long-vacant, budgeted and funded, critical legal specialist Senior Litigator posts were illegally permanently 'frozen' off the record in 2010 in blatant contravention of the PFMA, to set up a fake budgetary insufficiency cover-story* to feed Informant and put him off his annoyingly persistent pursuit of his appointment after he was duly selected and recommended for the Pietermaritzburg post, instead of Mlambo JP's long-time former judicial colleague whom the selection panel had disqualified and rejected for lack of Right of Appearance in the High Court and consequently zero practical litigation experience on his feet there, as required by the advertised qualifying criteria.

92. (*LASA's records reflect that some transitory financial uncertainty in 2010 was duly met by a Board resolution to temporarily freeze recruitment to some non-critical, entry-level public defender posts – in the result for just two months – and this minor hiccup did not even warrant a mention in LASA's annual performance report that year.)

93. By looking the other way in this manner, Ms Maluleke has practically condoned LASA's top officers' crimes and continuing flouting of the law, and has disregarded the enormous prejudice that these lawless public officers at LASA are continuing to

cause the most needy indigent – deprived of critical expert legal professional services that the Treasury has annually funded over the last seventeen years, and which the Justice Portfolio Committee has been misled into believing are being provided by LASA in accordance with its repeatedly expressly stated wishes.

94. This deliberate unlawful under-expenditure by LASA is especially serious in KwaZulu-Natal, the country's second-most populous province, whose vulnerable poor have been entirely deprived of expert litigation services for the protection and further achievement of their socio-economic rights – very reason Mlambo JP himself has given for LASA creating its nine Senior Litigator posts in 2006.

95. This has been the price paid by the indigent for the high-level recruitment corruption at LASA and its ongoing criminal cover-up since early 2010.

96. Informant advises us that since LASA (a) got him summarily dismissed as a magistrate on contract, and blacklisted from receiving any further acting appointments*, and (b) fouled his professional reputation as an advocate with its malicious complaint against him for allegedly unprofessionally complaining of Mlambo JP's misconduct, the effect of all of which was to wreck his legal career (see below), he has been working on this gargantuan institutional corruption case full-time.

97. (*Eighteen months after being ousted from the bench, Informant learned from the then-Chief Magistrate at Pietermaritzburg that this was LASA's achievement, by dint of complaint to the Magistrates Commission, of which Informant had been

unaware because he had not even been told of this complaint at the time, much less given an opportunity to answer it, before being summarily fired a couple of days later (Deputy Justice Minister John Jeffery refused to renew Informant's rolling contract on account of the complaint) under cover of the outright lie told him that Justice Department policy permitted an acting magistrate on contract to serve a maximum of two years only, and that his time was up. In truth, as Informant later found out, no such policy exists, and innumerable acting magistrates named to him have served indefinitely on the bench for much longer than two years.)

98. The Society's gross mishandling of LASA's complaint to it, further injuring Informant's professional reputation both provincially and nationally, is described with supporting records in his final response delivered to the LPC, posted online and accessible at illegal-aid.co.za/LPC.

99. Informant advises us that he has no less than three PAIA cases against LASA pending in the Pietermaritzburg High Court (as well as LASA's own still-born, manifestly legally incompetent application to transfer Informant's lower court PAIA litigation up to the High Court) plus another PAIA application pending against the JSC – all his applications being for orders (a) compelling LASA's and the JSC's delivery of duly requested but illegally and unconstitutionally withheld records, and (b) declaring LASA and the JSC to have violated the Constitution in withholding these records. The papers in Informant's PAIA litigation against LASA and the JSC are accessible at illegal-aid.co.za/PAIA.

100. In its answering papers the JSC has belatedly complied with Part One of Informant's records request, but is straining to suppress all records specified in Part Two: (a) interrogating the JSC's split decision of the Hlophe JP case, in which Mlambo JP, himself profoundly corrupt, reportedly wrote the majority opinion condemning Hlophe JP to impeachment (items 32–7 of the request); and (b) bearing on Mlambo JP's personal and professional integrity in relation to the Maduba scandal mentioned above (items 38–47 of the request).

101. The JSC's obviously spurious and diametrically contradictory reasons for its illegal and unconstitutional blanket refusal to comply with Part Two of Informant's request concerning these sensitive and potentially embarrassing matters are (a) that the requested records are 'privileged' – but Chapter 4 of Part 2 of PAIA headed 'Grounds for Refusal of Access to Records' contemplates no such ground for refusing access to a public body record, and the word appears nowhere in the Act; and (b) that Informant's request for them is 'vexatious' and therefore hit by section 45 of PAIA – but quite the contrary, as is clear from his record specifications in Part Two, Informant's request for them is exceedingly serious (as indeed the JSC's 'privileged' defence implies), and when finally delivered under court order and publicly aired the records the JSC is trying to suppress will have immense repercussions.

102. Informant advises us that he accordingly intends pursuing his application for an order compelling the JSC to surrender all of the records he duly requested, some of which it is illegally and unconstitutionally withholding from him to keep the lid

on a titanic judicial corruption scandal, specifically by covering for and protecting Mlambo JP from being held to account for his impeachably unethical conduct (a) in outrageously abusing his position to get his lady-friend Ms Maduba appointed – manifestly inappropriately – to the first tribunal established to try Hlophe JP, and (b) writing (allegedly) the JSC’s majority decision condemning Hlophe JP to be ousted from his post, even as he (Mlambo JP) had a documented history of criminal corruption himself, reported by Informant to the JCC, with huge negative implications for the integrity and security of that majority decision.

103. We note that after initially dismissing Informant’s first PAIA case against LASA, the judge granted Informant’s application for leave to appeal made on unusually extensive papers (so profuse were her errors), signifying her appreciation that she had made a complete hash of the case and that a full bench of appeal judges is likely to reverse her botched judgment, rule for Informant, and order LASA to disgorge the records it is corruptly, illegally and unconstitutionally hiding. We have studied the judgment in light of Informant’s appeal notice, and note that it is indeed shot through with the most basic mistakes of fact and law and is certain to be knocked over on appeal. These papers are accessible at illegal-aid.co.za/PAIA/PAIA_1.

104. We have also studied Part Two of Informant’s request for JSC records and note that the JSC’s ultimate response compelled by court will be highly embarrassing and damaging for several reasons, including that it will contradict and expose Mlambo JP’s false assurance given to the JSC under questioning by

Mpofu SC at his televised interview for the Chief Justice post in February 2022 about widespread rumours of his sexual nepotism, namely that in the event he be appointed Chief Justice there would be no '*surprises*' in this sordid regard that '*may embarrass the country*'.

105. It is clear to us from Part Two of Informant's request for specified JSC records that contrary to the dishonestly false assurance Mlambo JP gave the JSC about this to deliberately mislead and deceive it, in truth a most unpleasant '*surprise*' indeed lies in store to '*embarrass the country*'.

106. We are further disconcerted to discover from the JSC's answering affidavit in Informant's pending PAIA application against it that the JSC is non-compliant with its statutory obligations under that Act in multiple respects and that it is conducting itself unlawfully – a matter especially concerning to us seeing as this important public body is headed by none other than the Chief Justice and is composed predominantly of judges and lawyers whom the public would expect to know the law and to comply with it.

107. One: In criminal contravention of section 90(2) of PAIA, the JSC's information officer has failed to publish a PAIA manual as peremptorily required by section 14(1) of that Act, without any exemption from doing so having been granted by the Justice Minister under section 14(5).

108. Two: Employees of the JSC registered with the Information Regulator as deputy information officers do not hold written delegations issued by the JSC's

information officer, as peremptorily required by section 17(6) of PAIA. Consequently they are not deputy information officers under the Act; are legally incompetent to respond to PAIA requests made to the JSC under section 18; and have done so *ultra vires* and unlawfully in the past. (The JSC's entire answering affidavit in Informant's PAIA case against it, made by a self-billed deputy information officer without holding any written delegation, is therefor legally incompetent, irrelevant, and *pro non scripto*.)

109. Three: The person registered by the JSC with the Information Regulator as JSC information officer is the Secretary-General of the Office of the Chief Justice. Section 1 of PAIA, however, provides that '*information officer*' ... '*(c) in the case of any other public body [like the JSC], means the chief executive officer, or equivalent officer, of that public body or the person who is acting as such*'. A corporate secretary, being an administrative officer, is not an executive officer such a '*chief executive officer*' or '*equivalent officer*'. Furthermore, the Secretary-General of the Office of the Chief Justice, employed directly by the Justice Department, is not the '*chief executive officer*' of the JSC or '*equivalent officer*' or '*person who is acting as such*', because the JSC is a quite separate, independent public body, established by the JSC Act. Under Section 1 of PAIA, the JSC's information officer would appear to be its chairperson, Zondo CJ.

110. Four: The JCC is failing to duly decide whether to deal with misconduct complaints against judges under as section 16 as potentially impeachable and therefore fit for decision by a three-person disciplinary tribunal, or merely under

section 17 as non-impeachable and disposable by a single judge; and the JCC is not keeping records of its crucial determinations in this regard, thus frustrating possible court reviews of its irrational and indefensible decisions in this regard. The further result of this unlawful failure is that eminently impeachable complaints warranting judges' removal from the bench for the protection of the public and the integrity of the judiciary as a whole are being dealt with merely under section 17, whose list of permitted sanctions are no stronger than an apology, reprimand, warning, compensation, counselling, training, or other such feeble, scarcely punitive measure.

111. Five: In breach of their legal obligation imposed by section 10(2) of the JSC Act to do so, Judges Nkabinde, Makgoba, Zondi, Victor and their predecessors on the JCC have failed to report twice a year to the JSC on progress in their disposal of judicial misconduct complaints; and by flouting the law in this manner these judges have been unlawfully evading the JSC's oversight responsibility and eluding being held to account for their failure to reasonably timeously decide judicial misconduct complaints.

112. Two cases in point are the JCC's disgracefully tardy handling of Informant's capital complaints against Mlambo JP and Waglay JP. Indeed, having regard to the Constitution's prescription that public officers must perform their constitutional obligations with due expedition, the indolence of the judges handling the complaints is not only disgraceful, it is unconstitutional and illegal.

113. All this further illustrates the oft-remarked general dysfunction of the JSC – like that of ESKOM, SAPO, TRANSNET and so many other broken public entities in South Africa – and the JCC’s well-known reluctance to discipline delinquent fellow judges. This persistent failing has repeatedly attracted adverse comment by legal-academic and other commentators in the press over the years, most recently by JSC commissioner Narendra Singh MP, who observed at Mlambo JP’s interview for the Chief Justice post in February 2022 that the JCC is failing to prosecute judicial misconduct complaints timeously.

114. In other words, the JCC is not taking such complaints seriously, and is not dealing with accused judges as even-handedly as they would any other accused persons, thus making a mockery of Jefferson’s famous point to Washington in 1784 that the basis of a constitutional democracy is ‘*the denial of every pre-eminence*’.

115. Informant advises us that he intends suing for mandatory interdicts against the JSC compelling it to decide (a) his complaint against Waglay JP, lodged in June 2017, but many years later still undecided by Goliath DJP to whom it was allocated;* and (b) his appeal against Zondi JA’s ‘*patently dishonest*’ dismissal of his complaints against Mlambo JP, which was considered by Nkabinde, Makgoba and Victor JJ in December 2021, and remains undecided almost two years later.

116. (*Requested under PAIA, the JSC has no record of which judges on the JCC decided very absurdly that Informant’s capital complaint against Waglay JP for violating his judicial oath in the most egregious manner imaginable – namely by

tossing a case under improper influence, suborned to do so by the criminal author of the above-mentioned 'memorandum' – was non-impeachable, fit for disposal merely under section 17 of the JSC Act, and sanctionable under that section with no more than a slap on the wrist or tug on the ear.)

117. Likewise, Informant advises that he intends suing the LPC for a mandatory interdict compelling it to decide the capital complaint LASA made against him way back in November 2016, and which the LPC has left unresolved, to his enormous personal and professional prejudice.

118. Informant advises us further that he intends also suing the AG for a mandatory interdict compelling her performance of her statutory obligations (a) to act against LASA to end its blatantly illegal non-compliance with the PFMA in not filling its budgeted and funded remaining vacant Senior Litigator posts, to the prejudice of critical service delivery, year after year, for seventeen years now; and (b) to address the further '*material irregularities*' at LASA, as defined by the Public Audit Act and of formal concern to the AG under its provisions, which '*material irregularities*' Informant detailed and vouched in his twelve criminal charges against former CEO Vidhu Vedalankar and lodged with the AG for appropriate action.

119. Apropos of your Deputy Minister of Public Service and Administration's claim that Government was working '*to create a society where the processes of government administration and procurement were enforced*', Informant advises us

that on LASA's own showing in legal proceedings – and objectively confirmed by a record he sourced from LASA through PAIA litigation – then-Board chairperson Mlambo JP repeatedly intruded himself into and openly interfered with LASA's business operations as a *non-executive* director by illegally making final recruitment decisions regarding the appointments of Senior Litigators, by illegally overriding selection panel candidate recommendations, and by illegally substituting his own candidate preferences.

120. At least one such candidate, rejected by the selection panel, was illegally appointed upon Mlambo JP's order to the Mahikeng post instead of the duly recommended candidate. Another duly selected and recommended candidate was illegally vetoed by Mlambo JP for the Pietermaritzburg post, following the first interview for it, after which it was re-advertised; Informant applied for it and was shortlisted, interviewed, and selected and recommended for it (instead of Informant's rival applicant for the post, i.e. Mlambo JP's long-time colleague in the Labour Court, a repeatedly appointed acting judge there, upon which unwelcome event Informant's recruitment was '*immediately aborted*' (LASA's own words slipped out in legal pleadings).

121. In behaving in this flagrantly lawless fashion by disregarding LASA's recruitment code and approval framework precisely regulating recruitment procedure at LASA, Mlambo JP incontestably corrupted LASA's '*procurement ... processes*' for hiring senior, experienced litigation lawyers to serve the indigent in the upper courts. In a word, these '*procurement ... processes*' are not being

'enforced' at LASA to this day; quite the contrary, Mlambo JP illegally ignored and breached them, and in its court papers LASA continues justifying inanely his corruption of LASA's recruitment procedure prescribed by its Board on the basis of Jungle Law, in which the strongman gets the last say.

122. In violating these instruments of subordinate legislation regulating and prescribing '*procurement ... processes*' for recruiting senior legal professional staff at LASA, Mlambo JP acted in wholesale disregard for the rule of law in exactly the illegal manner Your Excellency condemned in your State of the Nation Address ('SONA') on 16 February 2018, in which you expressly deplored this evil of public entity board members illegally interfering in executive management's operations: '*We have found ... that board members get involved in operational measures. ... We will remove board members from any role in [them].*' (Had you known of LASA non-executive chairperson Mlambo JP's illegal '*role*' in LASA's '*operational measures*', you would surely have sacked him.)

123. Informant's draft documented complaint to the Public Protector about Mlambo JP's illegal corruption of Senior Litigator recruitment at LASA is accessible at illegal-aid.co.za/PP.

124. Had '*the processes of government administration and procurement*' at LASA been '*enforced*' as Government assured the UN in December 2020, LASA would have filled its three remaining budgeted and funded Senior Litigator posts at Pietermaritzburg, Durban and Kimberley, and not illegally kept them vacant since

their creation in 2006 in brazen contravention of the PFMA (as the Constitutional Court confirmed in *Zungu*), in a now thoroughly blown attempt to cover up recruitment corruption as regards the Pietermaritzburg post, in which Mlambo JP was centrally involved.

125. And but for Mlambo JP's illegal involvement in LASA's staff procurement, and his corrupt jobs-for-pals preference for his long-time former judicial colleague to get the job,* Informant would have been appointed to the said Pietermaritzburg post, following his unanimous recommendation for it in deservedly glowing terms by the duly constituted selection panel that interviewed him for it on 12 November 2009.

126. (*Mlambo JP's corrupt design to give his former judicial colleague the post, notwithstanding his disqualification and rejection by the selection panel, was stymied by Informant's persistent enquiries and then demands that his recruitment be finalised after LASA's Human Resources Executive inadvertently confirmed he had been selected and recommended for the post in a startlingly hostile, unprofessional, and palpably dishonest and *mala fide* email message. The recruitment was then 'frozen' – illegally, off the record, and without authority – as LASA's responses to Informant's PAIA requests have revealed.)

127. The saga is recounted more fully in the background provided to Informant's still pending complaint to the JCC against KwaZulu-Natal Division Judge President Portia Poyo Dlwati on a charge of contravening Article 16(1) of the Code of Judicial Conduct for unlawfully and unethically failing to report to the LPC or to

the Director of Public Prosecutions, as required of her by the said Code, Hundermark's many clear perjuries committed in an answering affidavit he made to deceive and misdirect her, which perjuries Informant categorically proved with supporting records in a replying affidavit. The complaint against Poyo Dlwati JP (then Acting Deputy JP) is accessible at illegal-aid.co.za/JSC/Poyo_Dlwati_ADJP

128. During his interview for the Chief Justice post by the JSC in February 2022, Mlambo JP was effusively commended for his '*star performance unmatched at LASA*' and for leaving it with '*a well-oiled machine with skilled practitioners*'. With intent to deceive it, Mlambo JP failed to correct the JSC's very false impression in this regard, thanks to the AG's indolence described above, and failed to truthfully volunteer that on account of his corruption of Senior Litigator recruitment operations, three out of nine of these critical posts at the apex of LASA's specialist professional staff establishment had deliberately and unlawfully been left unfilled with '*skilled practitioners*' for over a decade-and-a-half, in violation of the PFMA, under cover of changing, shifting lies told to Informant, to LASA's Board, to the Justice Minister, to the Justice Portfolio Committee, and to the courts – radically contradictory lies that Mlambo JP and his executive colleagues told in their attempts to falsely justify and get away with this.

129. In the situation, it is strongly recommended that the unanimous advice of our intelligence analysts and consultants be adopted and acted on, namely that the simple, narrow, core dispute in this matter between Informant and LASA be lawfully and equitably resolved – and really quite easily – before the wider matter

of judicial corruption at head of court level – in two courts – into which the dispute degenerated, and the egregious failure of the JCC to deal with it properly and prosecute it to due conclusion, compounded by the JSC’s atrocious retaliation against Informant, reaches the court of local and international opinion, at certain tremendous cost to the reputation of the judiciary both here and abroad and to South Africa’s standing generally as a trading partner claiming to abide by the rule of law and to be concerned about corruption and with the protection of those exposing it.

130. The reputation of the AG likewise stands gravely exposed on account of Ms Maluleke’s unlawful and shameful dereliction of her basic professional function to see to compliance with the PFMA by organs of state, in turning a blind eye to LASA’s major ongoing transgressions of that Act and to the recruitment corruption and criminality at LASA that Informant duly reported in his comprehensive, documented complaints about them.

131. Indeed, on a hard view of AG Maluleke’s conduct in unlawfully shirking her legal obligation to address this corruption while in possession of all the facts pertinently called to her attention, she has practically blessed and perpetuated it.

132. Having yourself now been apprised of the essential facts as well, we respectfully caution that it would reflect very negatively on Your Excellency’s own office as President were you to look away from this extremely serious, yet easily remediable matter, and to permit it to fester unattended and unresolved, should

Informant go public, both locally and internationally, in accordance with his recorded statement of intention to do so.

133. If left unresolved and consequently referred to the court of public opinion, both locally and internationally, the matter will also redound very negatively on the generally perceived integrity of Chief Justice Zondo, because it was under his watch as chairperson that the JCC (a) unlawfully failed to decide Informant's capital complaint against Waglay JP at all; and (b) unlawfully tardily dealt with his capital complaints against Mlambo JP – first directing that they be treated as non-impeachable (Ponnen JA and Goliath DJP), then neglecting to adjudicate them (Molemela JA), then eventually sweeping them under the carpet (Zondi JA), then failing to decide Informant's appeal against this now two years since it was considered (Constitutional Court judges Nkabinde and Makgoba JJ, and Victor J of the Gauteng High Court). All very dishonestly by these judges, to cover for their judicial colleague Mlambo JP and to protect him from being punished for his crimes and other gross misconduct.

134. As said, Informant wrote two letters to then-JSC chairperson Mogoeng CJ (now retired) and two more to then-JCC chairperson Zondo DCJ (as he then was), demanding the decision of his unlawfully long-outstanding complaints. And given that Zondo DCJ chaired the JCC at the material time, it is certain that Mogoeng CJ passed Informant's two letters addressed to him on to Zondo DCJ for action, yet the latter failed to see to the prosecution of Waglay JP at all, and of Mlambo JP with

due expedition, even after Informant's following two letters written directly to him (Zondo DCJ). All four letters are accessible at illegal-aid.co.za/JSC.

135. Any impartial observer might reasonably conclude that through his inaction regarding these exceedingly serious complaints, whose prosecution he was responsible to supervise as chairperson of the JCC, Zondo CJ has passively covered for these two corrupt judge presidents and has thereby protected them from being held to account, impeached, and removed from the bench.

136. Not only have the JSC and AG been unlawfully and disgracefully derelict in the performance of their obligations, so have the South African Human Rights Commission ('SAHRC'), Public Protector, and Information Regulator too. The history of their appalling failures to intervene in LASA's persistent illegal and unconstitutional suppression of duly requested records and in LASA's false reporting under section 32 of PAIA to cover this up, under the relevant legislation obliging them to do so, is too long and insufficiently material to recount here; but Informant's numerous appeals and unresolved complaints to these official watchdogs, and their very occasional weak responses, can be perused at illegal-aid.co.za/PAIA. In a word, these public bodies vested by the National Assembly with special statutory jurisdiction to oversee PAIA compliance by organs of state have proved completely useless.

137. To conclude, it bears recalling that the enormously destructive, costly and deadly riots in KwaZulu-Natal and Gauteng in July 2021 might have been

prevented or at least greatly mitigated had the State effectively processed and promptly acted on the early intelligence with which it had reportedly been furnished about mounting popular anger and grassroots- and pressure group mobilisation after the Constitutional Court jailed former President Jacob Zuma earlier in the month – intelligence quickly confirmed by the roadblocks and truck burnings on the N3 at Mooi River in his home province, despite which the State continued sitting on its hands for another week.

138. Indeed, at your appearance before the SAHRC on 1 April 2022, Your Excellency personally conceded this ‘*intelligence failure and security gathering failure*’, and admitted further that although the possibility of some instability had been reported, ‘*the nature, extent or ferocity of those events*’, which should have been ‘*known [by] the security services [and by] the government*’, was not ‘*more broadly anticipated*’ as it could and should have been. You remarked: ‘*I kept wondering, “How do I go to Addis Ababa and hold my head up as the head of South Africa when we’ve just been through an event like this?” And so to me as president of the republic, I found it humiliating.*’

139. Your Excellency evinced your particular concern that our judiciary’s reputation be protected in stating in January 2022 that Tourism Minister Lindiwe Sisulu had recanted her public criticism of it as ‘*unsubstantiated, gratuitous and deeply hurtful*’. (The ensuing dispute about this is irrelevant for present purposes.)

140. You explained your appearance before the SAHRC in April 2022 as being to *'prove and demonstrate that no one in South Africa is above the law'*, and you repeated this assurance to journalists taxing you about the Phala Phala affair as you were leaving the SACP national congress in Boksburg on 15 July 2022: *'Not a single person is above the law and everyone, regardless of the position that they occupy, must be held accountable for their actions'*.

141. As the extraordinarily serious matter that Informant has called to our attention shows, however, this fine abstract principle has not been applied to Judge Presidents Mlambo and Waglay; and precisely on account of *'the position that they occupy'*, they are not being *'held accountable for their actions'* warranting their removal from the bench, and in the case of Mlambo JP his imprisonment.

142. Now that all material facts and supporting documents are *'known [by] the security services [and by] the government'*, as you put it to the SAHRC in April 2022, we submit that the State's failure to negotiate a simple, easy resolution of this matter with its potentially massively damaging consequences – especially if brought to foreign attention – will amount to another inexcusable *'intelligence failure and security gathering failure'*. And, if through neglect by *'the security services [and by] the government'*, this easily avoidable scandal erupts internationally, Your Excellency is likely to wonder for a second time: *'How do I ... hold my head up as the head of South Africa when we've just been through an event like this? And so to me as president of the republic, I found it humiliating.'*

143. In the situation, the SSA strongly recommends that to head off the ‘*humiliating*’ titanic reputational damage that the State faces in this matter the Informant should be approached to ascertain his proposals for a complete and final global settlement of all claims, complaints and disputes.

144. Informant advises us that until such time as this matter is resolved, all material documents will remain publicly accessible at corrupt-judges.co.za and illegal-aid.co.za. Our intelligence analysts and consultants advise us that the documented facts detailed therein would be severely prejudicial to the interests of the State *vis à vis* its major foreign investors and trading partners and the other BRICS and BRICS+ countries should they come to their attention; and accordingly the complete, final, lawful and equitable resolution of this matter is pressing. To reiterate, a total solution can be achieved quite simply.

145. The consequences of leaving this matter unresolved are certain to be devastating to the State, and very ‘*humiliating to us as leaders of the government and as a country as well*’, as you put it to the SAHRC, especially after your and your ministers’ many assurances over the years that Government is serious about combating public sector corruption.

146. The history of Informant’s conduct over the past nearly decade-and-a-half – including his many persistent approaches to the relevant authorities, up to Ministerial and Parliamentary level; his prolific use of PAIA and many court applications under it brought to enforce his fundamental right to public body

information guaranteed by section 32(1)(a) of the Constitution when violated by public bodies furtively suppressing requested documents; his many other litigations; his several announced intended future litigations; and his demonstrated indifference to repeated attempts to fatally injure him professionally, financially, and personally so as to intimidate and silence him and shut him down – speaks unmistakably to the fact that he is fearlessly resolute in his adamant determination to achieve justice in his own case, and that he will stop at nothing lawful to succeed with this. In short, we conclude that his threat to go very public with this unresolved judicial and other corruption scandal is entirely serious.

148. In conclusion therefore we urge in the national interest that the narrow dispute between Informant and the State be conciliated without unnecessary delay, and that an all-encompassing settlement be sought and reached, on such terms as to confidentiality as the State might demand, to cut the fuse on this impending bombshell.

Signed at Pretoria on

2023

Thembisile Majola

Director-General: State Security Agency