

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

CASE NO: 7955/2021

In the matter between:

**ORGANISATION UNDOING TAX ABUSE NPC**

**APPLICANT**

And

**SOUTH AFRICAN NATIONAL ROAD AGENCY LTD**

**FIRST RESPONDENT**

**THE MINISTER OF TRANSPORT N.O.**

**SECOND RESPONDENT**

**SKHUMBUZO MACOZOMA N.O.  
(in his capacity as Information Officer)**

**THIRD RESPONDENT**

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**NOTICE OF MOTION**

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**TAKE NOTICE THAT** Organisation Undoing Tax Abuse NPC, (hereafter “the Applicant”) intends applying to this Court an order:

1. That the Applicant’s non-compliance with the 180-day period referred to in section 78(2)(c) of the Promotion of Access to Information Act, 2000, (“PAIA”), is condoned;
2. Setting aside the deemed refusal of the Applicant’s request for access to the records of the First Respondent in its request for information in terms of the PAIA and dated 8<sup>th</sup> June 2020, (“the request”);

3. Directing the First Respondent to provide the requested records to the Applicant within 15 (fifteen) days of the granting of this order;
4. Directing the First Respondent to pay the costs of this application;
5. Further and/or alternative relief.

**TAKE NOTICE FURTHER** that the accompanying founding affidavit of **STEFANIE FICK** and the annexures thereto, will be used in support of this application.

**TAKE NOTICE FURTHER** that the Applicant has appointed, **JENNINGS INCORPORATED** of the address below as the address at which it will accept notice and service of all further process in these proceedings.

**TAKE NOTICE FURTHER** that if you intend opposing this application you are required:-

(a) to notify the Applicant's attorney in writing on or before the 18 March 2021;

(b) and within fifteen days after you have so given notice of your intention to oppose the application, to file your answering affidavits, if any; and further that you are required to appoint in such notification an address referred to in rule 6(5) (b) at which you will accept notice and service of all documents in these proceedings.

If no such notice of intention to oppose be given, the application will be made on the a date to be allocated by the Registrar of the above honourable court at 10:00 a.m. or as soon thereafter as counsel may be heard.

DATED at PRETORIA on the 15<sup>TH</sup> day of FEBRUARY 2021.



JENNINGS INCORPORATED

Applicant's attorneys  
149 Anderson Street  
Brooklyn  
Pretoria

Tel: 012 110 4442

Email: [andri@jinc.co.za](mailto:andri@jinc.co.za)

Ref: A JENNINGS/OUT006

TO: **THE REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA,  
GAUTENG DIVISION, PRETORIA**

AND TO: **SOUTH AFRICAN NATIONAL ROAD AGENCY LTD**  
First Respondent  
48 Tambotie Avenue  
Val de Grace  
Pretoria  
0184

AND TO: **THE OFFICE OF THE STATE ATTORNEY**  
Second Respondent's Attorneys  
SALU Building,  
316 Thabo Sehume Street,  
Pretoria  
0001

AND TO: **SKHUMBUZO MACOZOMA**  
Third Respondent  
48 Tambotie Avenue  
Val de Grace  
Pretoria  
0184

AND TO: **BAKWENA**  
Southdowns Ridge Office park  
2nd Floor Unit 1A  
Cnr John Vorster & Nellmapius Drive  
Irene  
Centurion



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THIRD RESPONDENT

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FOUNDING AFFIDAVIT

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I,

STEFANIE FICK

hereby make the following statements under oath:

- 1 I am the Executive Director of the Applicant's Accountability Division and am duly authorised to bring this application on behalf of the Applicant. In this regard, I attach as ANNEXURE "SF1", a resolution authorising the institution of these proceedings.



- 2 The facts contained herein are unless the contrary appears from the context, within my personal knowledge and are true and correct.
- 3 Where necessary, I will refer to the relevant individuals who will support me in deposing to this affidavit, also in respect of the merits of this application, with which I will deal more fully hereunder.
- 4 To the extent that I rely on facts, statements, documents, and/or reports made by third parties, I do so based on the belief that same is true and correct. To the extent necessary, I annex copies or extracts of those documents to this affidavit.
- 5 Where I make legal submissions, I do so based on the advice of the Applicant's legal representatives, which advice I choose to accept.

## **PARTIES**

- 6 The applicant is the Organisation Undoing Tax Abuse ("OUTA"), a non-profit company, duly incorporated in terms of the law of the Republic of South Africa, with its registered address at Unit 4, Boskruin Village Office Park, Cnr President Fouché and Hawken Road, Bromhof, Gauteng.
- 7 The first respondent is the South African National Road Agency Limited ("SANRAL"), a public company with registration number 1998/009584/06 and registered in terms of the Company Laws of Republic of South Africa and established in terms of the South African National Roads Agency Limited and



National Roads Act, 1998 ("the SANRAL Act"), with its principal place of business situated at 48 Tambotie Avenue, Val de Grace, Pretoria.

- 8 SANRAL is a public body as defined in section 1 of Promotion of Access to Information Act, 2000, (hereafter "PAIA"), on the basis that it exercises a public power or performs a public function in terms of, inter alia, the SANRAL Act.
- 9 The second respondent is the Minister of Transport, (hereafter "the Minister"), who is cited herein in his official capacity c/o the offices of State Attorney at SALU Building, 316 Thabo Sehume Street, Pretoria. No relief is sought against the Minister who is cited herein for any legal interest he may have in the litigation between the parties. Costs will be sought against the Minister in the event of opposition.
- 10 The third respondent is Skhumbuzo Macomoza ("Mr. Macomoza") an adult male who is cited in his official capacity as the Chief Executive Officer and thus Information Officer of SANRAL, with his place of employment at 48 Tambotie Avenue, Val de Grace, Pretoria. Mr. Macozoma is cited herein for any legal interest he may have as the Information Officer of SANRAL.
- 11 In terms of the PAIA Manual which is published on SANRAL's website, Mr. Nazir Alli is cited as the information officer. It has come to my attention that Mr. Alli is no longer SANRAL's information officer and that the position of the information officer is currently vacant.



12 My attorney of record also telephonically contacted SANRAL to enquire about the details of the new information officer and she was informed that the position is still vacant. I attach as annexure "SF2," a copy of a confirmatory affidavit deposed to by my attorney of record, Andri Jennings.

### THE NATURE OF THIS APPLICATION AND THE RELIEF SOUGHT

13 This is an application brought in terms of section 78(2) (c) read with section 82 of PAIA. In this application OUTA seeks the following relief:

13.1 An order declaring that SANRAL's refusal of OUTA's request for access to information dated 8<sup>th</sup> June 2020 is unlawful and in conflict with PAIA;

13.2 An order setting aside the SANRAL's refusal to grant OUTA access to the information requested;

13.3 Directing SANRAL to supply OUTA with a copy of the records requested in OUTA's request for access to information dated 8<sup>th</sup> June 2020 within fifteen (15) days of service of the court order.

### JURISDICTION

14 I am advised that this court has jurisdiction to hear this application by virtue of the definition of "court" in section 1 of PAIA which provides that 'court' includes the High Court within whose area of jurisdiction the decision of the information officer

Two handwritten signatures in black ink, one on the left and one on the right, located at the bottom right of the page.

or relevant authority of the public body or the head of the private body has been taken.

## **STRUCTURE OF THE AFFIDAVIT**

15 The structure of this affidavit is as follows:

15.1 An overview and objectives of OUTA;

15.2 The factual background to this application;

15.3 The deemed refusal by SANRAL to grant access to the records;

15.4 The applicability or otherwise of internal appeal proceedings;

15.5 The grounds for condoning non-compliance with the 180-day period as prescribed by section 78(2)(c) (i) of PAIA;

15.6 Conclusion.

## **OVERVIEW AND OBJECTIVES OF THE APPLICANT**

16 OUTA is a civil action organisation (civil society) that through its various methodologies aims to hold the government to account by challenging the abuse of authority, challenging irrational policy and legislation as well as engaging with



the community and authorities in resolving issues about administration and service delivery within all spheres of government.

## **FACTUAL BACKGROUND**

- 17 SANRAL received a loan of R7 billion from the Brics National Development Bank ("NDB"). The loan is payable over a period of fifteen years.
- 18 The purpose of the loan is unknown however, it is reported that the purpose of the loan is both maintenance and construction of roads. It was also reported that the loan facility would be used for new projects relating to the existing tolls as per SANRAL's project plan.
- 19 OUTA enquired on the purpose of the loan however, SANRAL refused to disclose the details of the terms. All that SANRAL disclosed concerning the loan is that it is a sovereign and enjoys the best interest rates offered by NDB.
- 20 OUTA is concerned that SANRAL has taken out another R7bn loan, thereby entrenching itself into more debt with lending institutions. More debt will eventually negatively affect the ailing economy of the country and may lead to increased taxes and thus negatively impacting the lives of ordinary taxpayers.
- 21 Since the loan involves the use of public finances, SANRAL as a state organ is obliged to be transparent with Public Finances. OUTA wants to establish whether this loan was used to further fund the concessionaire agreements.



- 22 It is important for OUTA and it will in the best interest of the public for SANRAL to be transparent on the purpose of the loan. For instance, OUTA needs to know whether loan amounts were allocated to the concessionaire tolled routes (N3TC, Bakwena, and TRAC). These funds should not be allocated to the concessionaire toll roads because these toll roads are self-funding.
- 23 To the best of OUTA's knowledge, funding for tolled roads comes from the toll collection of those road networks and as such, OUTA would like to establish whether the abovementioned loan is going towards the GFIP bonds (e-tolled roads) or other SANRAL's managed toll roads that are supposed to be self-funding. Irrespective of whether the loan had been allocated to Bakwena, OUTA intends to conduct an analysis on whether the funding generated by Bakwena is in excess to the funds required to maintain the toll road. It is thus in the public interest that this information should be disclosed.
- 24 To exercise its constitutional right in terms of section 32 of the Constitution, OUTA submitted its Request for Access to Information in terms of section 18(1) of PAIA ("the request") on 08 June 2020 and by means of e-mail. I annex hereto copies of the covering letter, the request and the e-mail by means of which the request was sent marked "SF3", "SF4" and "SF5" respectively.
- 25 The particulars of records requested are contained in the annexure attached to "SF4" and marked "ANNEXURE X" therein. I pause to state that the request for information is not a fishing expedition but stems from the right to demand transparency from state organs. As a state organ, SANRAL cannot refuse to



provide that information on the basis that it holds the view that OUTA is in a fishing expedition.

- 26 On 22 July 2020, Andrea Korff acting on behalf of OUTA, sent an email to SANRAL requesting a formal response to OUTA's request for information. A copy of the said email is attached hereto marked as annexure "SF6". I am advised and submit that SANRAL's failure to engage with OUTA indicates a failure to comply with the obligations imposed on public bodies.
- 27 The Court would note from annexure "SF6" that the only consent given by OUTA was that SANRAL could deliver a response on or before the 29<sup>th</sup> July 2020.
- 28 SANRAL only responded on the 30<sup>th</sup> July 2020. I annex hereto copies of the e-mail dated 30<sup>th</sup> July 2020 as well as the letter from SANRAL dated 29<sup>th</sup> July 2020 marked annexure "SF7" and "SF8" respectively. I also annex hereto marked "SF9" an affidavit from Andrea Korff relating to the above.

#### **SANRAL'S DEEMED REFUSAL TO OUTA'S REQUEST**

- 29 In terms of section 25(1)(a) of PAIA the Information Officer, (hereafter "the I.O."), of SANRAL was required to decide on the request within 30 days after having received the request.
- 30 Although Mr. Alli might not have been the I.O. of SANRAL at the date of the request it is important to note from paragraph (c) of the definition of 'Information Officer' in PAIA that an Information officer is defined as meaning the chief



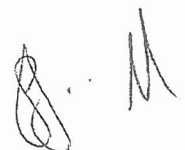


executive officer, or equivalent officer of that public body or the person acting as such.

- 31 In this regard the Court would note from "SF8" that Skhumbuzo Macomoza not only acts as the I.O. of SANRAL but that, in addition, he is reflected as the chief executive officer on the letterhead of SANRAL which would mean that he is in fact and in law the Information Officer of SANRAL.
- 32 The Court would further note from the content of "SF3" as well as "SF5" that the request was sent to the e-mail address of macomozas@nra.co.za which is the e-mail address of Skhumbuzo Macomoza.
- 33 In the premise, OUTA submits that, at all relevant times, the I.O. of SANRAL was Skhumbuzo Macomoza and that he was required to respond to the request by no later than the 8<sup>th</sup> July 2020 as required in terms of section 25(1)(a) of PAIA.
- 34 As a result of the failure of the I.O. of SANRAL to respond to the request in terms of section 25(1) of PAIA, the I.O. is regarded in terms of section 27 of PAIA as having refused the request, (hereafter "SANRAL's deemed refusal").
- 35 SANRAL's deemed refusal was not a decision arrived at in terms of section 25(3)(a) of PAIA and the refusal stands to be set aside on that ground alone.

#### **INTERNAL APPEAL PROCEEDINGS**

- 36 The rules made in terms of section 79 of PAIA, ("the PAIA rules"), more particularly



Rule 3 (2) of the PAIA rules requires that an affidavit in support of an application in terms of section 82 of PAIA should state whether the Internal Appeal procedures contemplated in section 74 of PAIA are applicable.

- 37 In the paragraphs below I set out the basis upon which OUTA contends that the Internal Appeal procedures are not applicable.

### **INTERNAL APPEAL PROCEDURES ARE NOT APPLICABLE**

- 38 Section 78 of PAIA makes it clear that a requester referred to in section 74 of PAIA is bound to exhaust the internal appeal procedure provided for in section 74 of PAIA before approaching court on application in terms of section 82. The material portion of section 78(1) of PAIA provides as follows:-

*“(1) A requester...referred to in section 74 may only apply to court ... for relief in terms of section 82 after that requester ... has exhausted the internal appeal procedure against a decision of the information officer of a public body provided for in section 74.”*

- 39 Section 74 (1)(a) of PAIA is not applicable to all requesters. Upon proper construction of section 74(1)(a) it is clear that the 'public body' referred to in section 74(1)(a) of PAIA is a 'public body' as defined in paragraph (a) of the definition 'public body'. Paragraph (a) of 'public body' is defined as follows:-

*“(a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government;*



40 A 'public body' as contemplated in paragraph (b) of the definition is reproduced below:-

" 'public body' means-

...

(b) any other functionary or institution when-

...

(ii) exercising a public power or performing a public function in terms of any legislation.

41 SANRAL is a public company registered in accordance with the company laws of the Republic of South Africa and it is established in terms of the SANRAL Act.

42 Accordingly, I submit that SANRAL is a 'public body' as contemplated in paragraph (b) of the definition in that it is a functionary or institution which exercises a public power or performs a public function in terms of, *inter alia*, the SANRAL Act.

43 As a result, it is submitted that OUTA is not obligated to exhaust any internal appeal procedure as provided for in section 74 of PAIA.

#### **CONDONATION FOR THE NON – COMPLIANCE WITH 180 DAY PERIOD**

44 As a consequence of the fact that the application is premised on the deemed refusal OUTA was obliged by the provisions of section 78(2)(c) of PAIA to apply to

Court within a period of 180 days after the deemed refusal.

45 Section 82 (e) of PAIA permits a Court to grant an order condoning non – compliance with the 180-day period within which to bring an application, where the interests of justice so require.

46 I am advised that the test for determining whether condonation should be granted or refused is the interests of justice. The factors that are taken into account in that inquiry include, inter alia, :-

46.1 The length of the delay;

46.2 the explanation for, or cause for, the delay;

46.3 the prospects of success for the party seeking condonation;

46.4 the importance of the issue(s) that the matter raises;

46.5 prejudice to the other party or parties; and

46.6 the effect of the delay on the administration of justice.

47 Although the existence of the prospects of success in favour of the party seeking condonation is not decisive, it is an important factor in favour of granting condonation.



### The explanation for, or cause of, the delay

48 Instructions were given by OUTA to its attorneys of record, Andri Jennings from Jennings Incorporated, (hereafter "Jennings Inc."), on the 29<sup>th</sup> September 2020 to instruct junior counsel to assist OUTA in the application.

49 OUTA's attorney briefed the counsel concerned on the 1<sup>st</sup> October 2020. The particular junior counsel had previously been briefed by OUTA.

50 Werksmans Attorneys, (hereafter "Werksmans"), were appointed as attorneys for SANRAL and by means of a letter dated 15<sup>th</sup> October 2020 they advised OUTA that they required time within which to consider the requests made by OUTA. A copy of the letter from Werksmans dated 15<sup>th</sup> October 2020 is annexed hereto marked "SF10".

51 Werksmans by means of letter undertook to provide a response to OUTA's request for access as well as an internal appeal lodged by no later than 19<sup>th</sup> November 2020 to which OUTA agreed by means of e-mail. A copy of the letter from Werksmans dated 20<sup>th</sup> October 2020 and the e-mail in which OUTA granted the request of Werksmans and dated 21<sup>st</sup> October 2020 is annexed hereto marked "SF11" and "SF12" respectively.

52 At this stage Jennings Inc. had already received a draft affidavit from the junior counsel concerned which had been accompanied by a few queries raised. OUTA, represented by its legal project manager Brendan Slade, considered that it would be appropriate to consult on those issues closer to the 19<sup>th</sup> November 2020 when



a response from Werksmans was due. In this regard I annex hereto an e-mail dated 23<sup>rd</sup> October 2020 from OUTA to Jennings Inc. marked "SF13".

- 53 On the 19<sup>th</sup> November 2020, Werksmans indicated that, inter alia, after having considered the requests as well as the Internal Appeals it was of the view that SANRAL was *functus officio* and that the Internal Appeal procedure contemplated in PAIA did not find application. In this regard I annex hereto the letter from Werksmans dated 19<sup>th</sup> November 2020 marked "SF14".
- 54 On the 20<sup>th</sup> November 2020 OUTA gave instructions by means of e-mail that the application should be drafted on the basis of a deemed refusal and that the application should be drafted on that basis. A copy of the e-mail sent on the 20<sup>th</sup> November 2020 is annexed hereto marked "SF15".
- 55 The Court would note from "SF15" that OUTA was well aware of the 180 – day period and when it would commence. Counsel who was engaged in a trial had given an undertaking to Jennings Inc. on the 7<sup>th</sup> December 2020 that a draft would be ready by 10<sup>th</sup> December 2020.
- 56 When the draft had not been furnished OUTA's attorney was informed on the 11<sup>th</sup> December 2020 that counsel concerned had contracted the Covid-19 virus. Counsel had nonetheless managed to furnish Jennings Inc. with a draft affidavit and notice of motion on the 13<sup>th</sup> and 14<sup>th</sup> December 2020 respectively. Jennings Inc. forwarded the drafted documents to OUTA on the 15<sup>th</sup> December 2020,



however OUTA's offices were already closed for the annual holidays on the 15<sup>th</sup> December 2020.

- 57 OUTA's staff responsible for the litigation only had an opportunity to consider these drafted documents upon its return to its offices on the 4<sup>th</sup> January 2021 and only then became aware that the application had been drafted on a basis which was contrary to the instructions given to counsel concerned. The application was not drafted on the basis of a deemed refusal.
- 58 OUTA decided to take steps to procure the services of other counsel immediately. Unfortunately it was the first week of January 2021 and it was during a time when most people, if not all people, are still on vacation.
- 59 As a result, suitable counsel could only be instructed after the *dies* prescribed in section 78(2)(c) of PAIA had run out. Jennings Inc. was able to procure the services of counsel who was appointed on the 20<sup>th</sup> January 2021. The application was finally prepared during the week of the 25<sup>th</sup> January 2021.
- 60 I submit that had OUTA's instruction been followed OUTA would have been able to bring the application on the 4<sup>th</sup> January 2021 which would have been within the time prescribed by section 78(2)(c) of PAIA. OUTA had never had reason to question the capabilities of counsel in carrying out a written instruction given.



### **The length of the delay**

61 According to OUTA's calculation the 180 – day period referred to in section 78(2)(c)(i) of PAIA would have expired on the 4<sup>th</sup> January 2021.

62 I would submit that the delay in this matter is not excessive.

### **The prospects of success**

63 The application is based on a deemed refusal.

64 A deemed refusal in terms of section 27 of PAIA is not a decision reached in terms of section 25 (3) of PAIA, which at the very least requires reasons to be furnished.

65 The fact that there is non-compliance with section 25(3)(a) of PAIA warrants the setting aside of any decision, including a deemed refusal.

66 In the premise, it is submitted that prospects of success exists in this application.

### **The importance of the issue raised**

67 OUTA intends to evaluate both the legality of an agreement that is of public interest as well as the practical implications thereof as OUTA has reason to believe that the funding generated by Bakwena is excessive when compared to the actual costs of maintaining the toll road(s). Should OUTA's findings determine such hypothesis, it would imply that a service provider is generating a disproportionate amount in profits at SANRAL's (and taxpayers') expense.





68 However, OUTA will only be in a position to conduct such analysis upon the production of the records referred to in its request. Should OUTA determine that SANRAL had acted unlawfully in the implementation of its Bakwena Concession Contract and/or failed to act in accordance with the provisions of the PFMA, it ultimately intends instituting the relevant proceedings in a court of law.


69 As SANRAL is a public company, it is subject to, *inter alia*, the provisions set out in Chapter 5 of the PFMA, non-compliance of which may potentially amount to financial misconduct as contemplated in section 81 of the PFMA.

70 It is for this reason that OUTA requests access to be granted to the records in question, as such records will prove pivotal in determining whether the PFMA and/or other relevant legislation had been contravened.

71 PAIA is the national legislation envisaged in section 32(2) of the Constitution. It was enacted to give effect to access to information and to promote the values of openness, transparency, accountability, and good governance – principles foundational to the Constitution.

72 I am advised and submit that:

72.1 In terms of PAIA, public bodies are under a duty to provide access to a requested record, or part of it, unless refusal to the request is permitted or required on one or more of the grounds listed in PAIA; and



72.2 Everyone's request for access to information in terms of PAIA is an invocation of section 32 right in the Constitution and entitles the requestor to access to the requested record, or part thereof if that requestor complies with all the procedural and statutory requirements set out in the statute unless there is a valid ground of refusal which the private or public body may rely on.

72.3 The right of access to information is fundamental to the realization of the rights guaranteed in the Bill of Rights.

73 SANRAL's failure to make a decision on OUTA's request ultimately results in a failure by SANRAL to give effect to their constitutional obligations under PAIA and it ultimately infringes OUTA' Constitutional right of access to information.

**There is no prejudice to other party**

74 The Court would note from the annexure marked "SF13" that Werksmans do not anticipate SANRAL opposing any application setting aside SANRAL's decisions.

75 In the premise, I submit that there can be no prejudice suffered by SANRAL.

76 The importance of the issue raised.

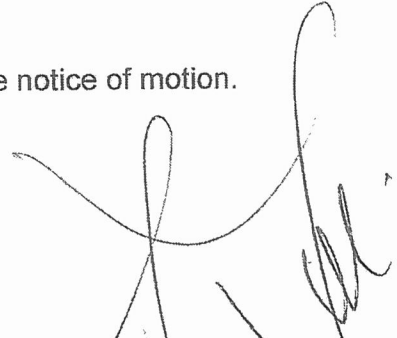
**The effect of the delay on the administration of justice**

77 I would submit that there is no effect on the administration of justice as a result of the delay.


**CONCLUSION**

78 OUTA submits that, with reference to all the relevant factors as set out above, it is in the interests of justice that an order be granted condoning non-compliance with the 180-day period referred to in section 78(2)(c) of PAIA.

79 In the premise, I pray for an order in terms of the notice of motion.

  
\_\_\_\_\_  
**DEPONENT**

The Deponent has acknowledged to me that she knows and understands the contents of this affidavit, that she does not have any objection to taking the oath, and that she considers it to be binding on her conscience, and which affidavit was signed and sworn to or before me at **Johannesburg** on this 12<sup>th</sup> day of February 2021, the regulations contained in Government Gazette Notice No. R1258 of July 1972 as amended by Regulation No. 1648 dated 19 August 1977, by GN R1428 of July 1980 and by GN R774 of 23 April 1982, having been complied with.

  
\_\_\_\_\_  
**COMMISSIONER OF OATHS**

Full names: **LEANA FICK**  
Designation and area: **PRACTISING ADVOCATE OF THE HIGH COURT (M103751)**  
Street address: **THE CHAMBERS, 3<sup>RD</sup> FLOOR,  
3 PROTEA PLACE  
SANDOWN  
(011) 775 5800**

**ADV L FICK  
0828571063**

"SF"

**RESOLUTION No 2020/014**

*Of the Executive Committee*

The Executive Committee of the Organisation Undoing Tax Abuse ("OUTA") has discussed and resolved that:

- Stefanie Fick in her capacity as the Executive Director of the Accountability Division of OUTA is hereby authorised to institute legal proceedings (in terms of PAIA) against the South African Roads Agency Ltd ("SANRAL") and/ or Bakwena on behalf of OUTA<sup>1</sup>; and
- The scope of such authorisation includes, but is not limited to, the deposing to any affidavit so required by the relevant rules of court applicable to such legal proceedings.

*Approved by the Executive Committee on this 5th day of October 2020.*



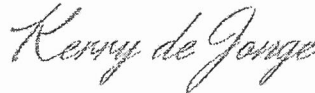
Wayne Duvenage



Stefanie Fick



Julius Kleynhans



Kerry de Jonge

<sup>1</sup> See TR 1712 - 016



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

"SF 2"

CASE NO: 7955/2021

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**SKHUMBUZO MACOZOMA N.O.  
(in his capacity as Information Officer)**

**THIRD RESPONDENT**

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**CONFIRMATORY AFFIDAVIT**

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I,

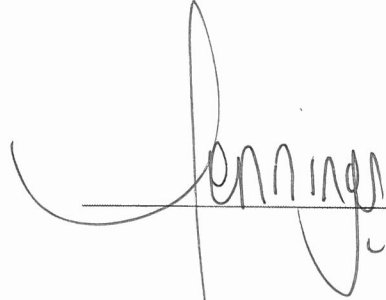
**ANDRI JENNINGS**

Hereby make the following statements under oath:

- 1 I am an adult female attorney, practicing as such as a Director at Jennings Incorporated Attorneys, situated at 149 Anderson Street, Brooklyn, Pretoria. Gauteng, South Africa.
- 2 I am the attorney of record on behalf of the Applicant herein.

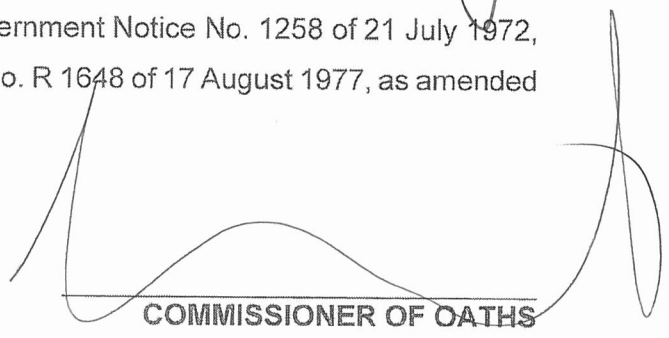


- 3 The facts contained herein are, unless the contrary appears from the context, within my personal knowledge and are true and correct.
- 4 I have read the content of the Founding Affidavit deposed to by Stefanie Fick and confirm the content thereof insofar it relates to me.

  
\_\_\_\_\_  
DEPONENT

The Deponent has acknowledged that she knows and understands the contents of this affidavit which was signed and sworn to before me at Pretoria on this the 12<sup>th</sup> day of February 2020 the regulations contained in Government Notice No. 1258 of 21 July 1972, as amended and Government Notice No. R 1648 of 17 August 1977, as amended having been complied with.

**BERNARD BEZUIDENHOUT**  
KOMMISSARIS VAN EDE  
COMMISSIONER OF OATHS  
PRAKTISERENDE PROKUREUR R.S.A  
PRACTISING ATTORNEY R.S.A  
149 ANDERSON STREET  
BROOKLYN, PRETORIA, 0181

  
\_\_\_\_\_  
COMMISSIONER OF OATHS



07 June 2020

Attention: The Information / Deputy Information Officer  
The South African National Roads Agency Limited  
48 Tambotie Avenue  
Val de Grace  
Pretoria  
0184

Email: [info@nra.co.za](mailto:info@nra.co.za)  
[macozomas@nra.co.za](mailto:macozomas@nra.co.za)  
[alli@nra.co.za](mailto:alli@nra.co.za)  
[motaungh@nra.co.za](mailto:motaungh@nra.co.za)

Dear Sir/Madam,

**REQUEST FOR ACCESS TO INFORMATION IN TERMS OF THE  
PROMOTION OF ACCESS TO INFORMATION ACT, 2000 ("PAIA") –  
FORM A  
OUR REF: TR1712/-016/A**

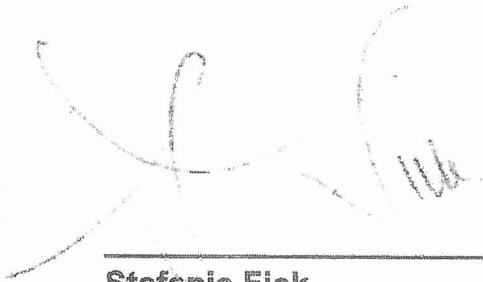
1. We refer to the above.
2. The Organisation Undoing Tax Abuse (OUTA) is a proudly South African non-profit civil action organisation, comprising of and supported by people who are passionate about improving the prosperity of our nation. OUTA was established to challenge the abuse of authority, in particular the abuse of taxpayers' money.
3. Kindly find attached hereto our request for access to information in terms of section 18(1) of the PAIA.

# OUTA

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4. Kindly note that we tender any cost occasioned by our request.
5. Kindly contact our Andrea Korff at [andrea.korff@outa.co.za](mailto:andrea.korff@outa.co.za) in the event of any queries.
6. We trust that you find the above in order and look forward to receiving your response on or before 17 July 2020.
7. Kindly acknowledge receipt of this letter.

Yours Sincerely,



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**Stefanie Fick**  
**Head of the Accountability Division**  
**OUTA – Organisation Undoing Tax Abuse**  
E-mail: [stefanie.fick@outa.co.za](mailto:stefanie.fick@outa.co.za)







"JF4"  
J750

REPUBLIC OF SOUTH AFRICA

**FORM A**  
**REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY**  
(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))  
[Regulation 6]

**FOR DEPARTMENTAL USE**

Reference number: .....

Request received by ..... (state rank,  
name and surname of information officer/deputy information officer) on ..... (date)  
at ..... (place).

Request fee (if any): R .....

Deposit (if any): R .....

Access fee: R .....

.....

SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER

**A. Particulars of public body**

The Information Officer/Deputy Information Officer

THE SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED  
48 TAMBOTIE AVENUE  
VAL DE GRACE  
PRETORIA  
0184