

IN THE MAGISTRATE COURT OF THE REPUBLIC OF SOUTH AFRICA
(FOR THE DISTRICT OF KIMBERLY)

CASE NO.: Y/2000.

In the Ex Parte Application by

SPECIAL INVESTIGATING UNIT

APPLICANT

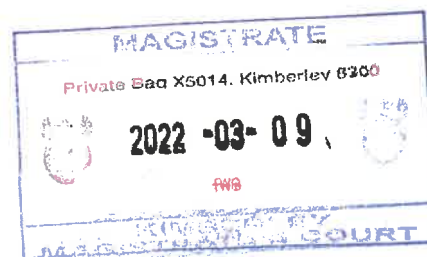
In re: NATIONAL LOTTERIES COMMISSION

SEARCH AND SEIZURE WARRANT

(Section 6 read with section 4 and 5 of the Special Investigating Units and Special Tribunal Act 74 of 1996 (Act No. 74 of 1996) ("SIU Act").

WHEREAS it appears to me from information on oath provided by Mr Nelson Mathaba, a Principal Forensic Lawyer, employed by the Special Investigating Unit ("**SIU**"), in an investigation authorised in terms of the abovementioned Proclamation that there are reasonable grounds for reasonably believing that:

- A. Irregularities as contemplated in the Schedule attached to Proclamation No. R.32 of 2020 in respect of certain affairs of the National Lotteries Commission ("**NLC**") had occurred (see affidavit of Mr Mathaba attached "**Annexure A**").



B. The articles/items capable of seizure, which are concerned/may afford evidence/are intended to be used in the commission or suspected commission of the said irregularities are listed on the attached "Annexure B" and

C. Such articles/items -

(i) Are upon or at the following premises within the court's area of jurisdiction, namely:

- National Lotteries Commission, Northern Cape Provincial Office, 11A Schmidt's Drift Road, Kimberly, 8300; and
- Aobakwe Gaobuse's house, House No.29 Swanns Way street, Rhodesdene, Kimberley, 8300.

(such being hereinafter referred to as, "the identified premises");

THEREFORE THERE IS A NEED to search for and seize said article(s)/items upon or at the premises/ under the control of or upon the identified persons.

YOU ARE HEREBY AUTHORIZED AND REQUIRED within the context of the performance of all relevant duties to –

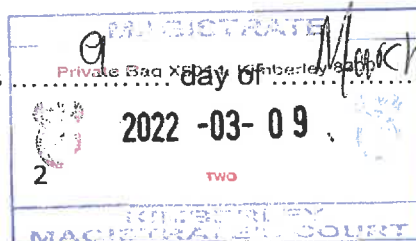
- enter the premises and approach any person under the employ of the NLC during the day time and search for the articles (listed as Annexure A attached hereto) and to seize any such articles that are found and exercise any further powers and perform any further duties in relation to such seized articles as set out in section 6(3) and 6(4) of the Special Investigating Units and Special Tribunals Act 74 of 1996; and
- search for and through any data and data messages and the examination thereof, on any information system that is found (as these terms are defined in the Electronic Communications and Transactions Act, No. 25 of 2002), such may be done during the conducting of the search.

Any person whose rights in respect of any search or article seized under this warrant have been affected is entitled to a copy of this warrant.

The SIU member in charge of this search and seizure, will during the search and seizure be assisted by the following SIU members as attached per "Annexure C".

Given under my hand
At Kimberley
Herb Kanche

on this



(month) 03 (year) 2022

SIGNATURE:

R. Terblanche

INITIALS AND SURNAME:

R. Terblanche

DESIGNATION:

Senior Magistrate

AREA OF JURISDICTION:

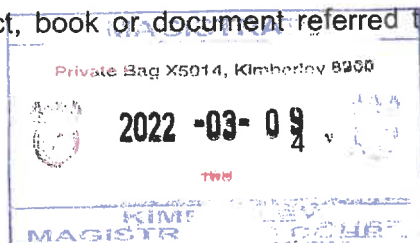
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ANNEXURE B

(Articles/items list)

1. All originals and/or copies of application for a grant in terms of the Lotteries Act (Act No.57 of 1997) including all supporting documents submitted to NLC by the entities listed on paragraph 4.4 and 6 of the supporting affidavit, for grant funding, for the period from 1 April 2014 to 6 November 2020;
2. All original and/or copies of the approval letters including recommendations by Distribution Agency or the NLC Board for the period 1 April 2014 to 6 November 2020;
3. All originals and/or copies of the grant agreement entered between the entities listed on the attached supporting affidavit and the NLC for the period 1 April 2014 to 6 November 2020;
4. All original and/or copies of correspondence related to application for grant, which includes but not limited to request for additional budget, addendum to grant agreement, progress reports, and any other document(s) relevant to the allegations contained in the Proclamation, for the period from 1 April 2014 to 6 November 2020;
5. All recorded and/or handwritten minutes of meetings of the NLC officials and NLC Board in relation to the allocation of money from the National Lottery Distribution Trust Fund to beneficiaries in terms of the Lotteries Act, 1997; for the period from 1 April 2014 to 6 November 2020 ;
6. All original and/or copies of financial statements reflecting the total income and expenditure of the NLC as well as to who payments were made for the period from 1 April 2014 to 6 November 2020;
7. The personal file and official computers, including desktops, laptops, tower systems, notebooks, storage devices, network devices, and access tokens of Edmond Macatees known as Lala, Tebogo Malose , Obakwe, Tsepiso Moraka, Tsepiso Mokgwerane , Fikile Gomba, Gogontle used during the period from 1 April 2014 to 6 November 2020;
8. The official computer(s) including desktop(s), Laptop(s) of officials/employess on the NLCNC listed on paragraph 4.4 of Mr Mathaba's affidavit attached herein
9. To attach anything on or in the premises which has a bearing on the allocation of money from the National Lottery Distribution Trust Fund to beneficiaries in terms of the Lotteries Act, 1997; for the period from 1 April 2014 to 6 November 2020;
10. Remove any object, book or document referred to in paragraph 1 to 8 above from the premises.

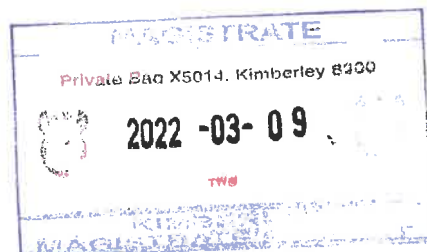


ANNEXURE C

(List of SIU members authorised to execute the Search and Seizure Warrant)

The SIU member in charge of executing the search and seizure warrant is Mr Mathaba as assisted by the following SIU members listed below:

No.	NAME AND SURNAME	DESIGNATION
1	Reuben Maiwashe	Principal Forensic Lawyer
2	Mashudu Netshikweta	Forensic Investigator Specialist
3	Zandile Mkhari	Chief Forensic Investigator
4	Primrose Mkize	Chief Forensic Investigator
5	Godsave Ngobeni	Chief Forensic Investigator
6	Jacob Nkoe	Forensic Investigator
7	Thomas Mlangeni	Forensic Investigator
8	Sibongile Mbeje	Forensic Investigator
9	Smiso Dlamini	Forensic Investigator
10	Bartman Mudau	Forensic Investigator
11	Zanele Oliphant	Forensic Investigator
12	Dieketseng September	Forensic Investigator
13	Bukelwa Sam	Forensic Investigator
14	Fagmie Rajap	Head of Investigations
15	Jerry Lefu	Acting Provincial Head
16	Karuna Marimutu	Forensic Investigator
17	Mapatule Mohale	Forensic Investigator
18	Zorena Maphosa	Chief Administrator



AFFIDAVIT

I, the undersigned,

Nelson Sodi Mathaba

Hereby declare in English under oath as follows:

1. INTRODUCTION

- 1.1 I am an adult male employed as a Principal Forensic Lawyer by the Special Investigating Unit ("SIU"), at the SIU office located at the 74 Watermeyer Street, Meyerspark Pretoria. My work telephone number is 012 843 8543.
- 1.2 I am the deponent hereto and the averments made herein are, unless otherwise stated or the context indicates otherwise, within my own personal knowledge, both true and correct.
- 1.3 I am duly authorised to depose to this affidavit.

2. MANDATE OF THE SIU

- 2.1 The SIU has been mandated in terms of Proclamation No. R.32 of 2020 issued in terms of section 2(1) of the Special Investigating Units and Special Tribunals Act 74 of 1996 ("the SIU Act") and published in Government Gazette number 43885, dated 6 November 2020 ("the Proclamation"), to conduct an investigation into the affairs of National Lotteries Commission ("NLC") previously known as the National Lotteries Board for period between 1 January 2014 to the date of publication of the Proclamation which is 6 November 2020. The SIU may furthermore investigate matters that took place prior to 1 January 2014 or after the date of publication of the Proclamation, which is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involve the same persons, entities or contracts investigated under authority of this. A copy of the Proclamation is attached hereto as "Annexure NSM1".
- 2.2 In terms of the Schedule to the Proclamation the SIU is authorised to investigate:

1. *Maladministration in the affairs of NLC in relation to the –*

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(a) Investment of funds in the National Lottery Distribution Trust Fund , established in terms of section 21 of the Lotteries Act , 1997 (Act No 57 of 1997), contrary to the provisions of the said Act; and

(b) allocation of money in the Fund referred to paragraph (a) to the beneficiaries who were no entitled thereto in terms of the Lotteries Act, 1997 including the causes of such maladministration .

2 Any improper or unlawful conduct by the officials or employees of the NLC, or any other person or entity , in relation to the allegations set out in paragraph 1 of this Schedule , including the causes of such improper or unlawful conduct and any losses, damage or actual or potential prejudice suffered by the NLC or the State “

3. PURPOSE OF THIS AFFIDAVIT

3.1 This affidavit is deposed of in support of an application made in terms of Section 6(5) of the SIU Act, seeking an entry warrant for entering, searching of premises, the attachment and removal of books, documents, computers or objects at NLC, Northern Cape Provincial Office, Suite D, 9 Roper Street, Kimberly, 8300; NS
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3.2 This application for a search and seizure warrant is related to an investigation proclaimed under the Proclamation issued in terms of the SIU Act. A copy of the SIU Act is attached hereto as “Annexure NSM2”.

4. THE FACTUAL BACKGROUND TO THE CURRENT MATTER

4.1 Pursuant to the issuance of the Proclamation, the SIU’s investigating team received a tip off from two different whistle blowers on allegations of fraud and corruption relating to issuing of grants for Charity, Arts & Culture and Sports & Recreation against certain NLC officials stationed at the National Lotteries Commission Northern Cape (“NLCNC”) offices.

4.2 According to the whistle-blower, it is alleged that certain officials of the NLC in Kimberly are engaged in corrupt activities in relation to allocation of grant money to beneficiaries who were not entitled thereto . The alleged corrupt NLC officials are using external people “runners” to corruptly assist them (i.e. NLC officials) in identifying registered NPO’s within different communities in and around Kimberly. The runners would assist the NPO’s in completing the application form for grant funding and submit same to the NLC. The NLC official

will ensure that the application is approved and grant is paid to the relevant NPO, The NLC official(s) will demand 30% of the total grant funding to be paid back to the alleged corrupt NLC officials whom will then share same with other syndicate corrupt officials within the NLC, who would have assisted in the processing and approval of the NPO to secure the funding. The whistle-blower further indicated that some of the documents relating the above allegations are kept at Obakwe Gaobuse's house.

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4.3 The whistle-blowers further indicated that Mr. Edmond Mactee's a official of the NLC widely known as "Lala", usually facilitates the appointment of his brother, Kagiso Mactee's as a service provider to the NPO's that would have received grant funding from the NLC through irregular and/or corrupt means.

4.4 According to the whistle-blowers, other NLCNC implicated officials and entities have been identified as follows:

4.4.1 Edmond Macatees known as Lala;

4.4.2 Tebogo Malose ,

4.4.3 Obakwe Gaobuse,

4.4.4 Tsepiso Moraka,

4.4.5 Tsepiso Mokgwerane ,

4.4.6 Fikile Gomba,

4.4.7 Gogontle

4.4.8 Rethabile Daycare centre,

4.4.9 Mosiapoa Daycare centre ,

4.4.10 Ikakgeng Day Care Centre ,

4.4.11 Legae Labagolo NPO,

4.4.12 Mandela Old Age Centre ,

4.4.13 Agape drug rehabilitation centre ,

4.4.14 Abrina NPO ,

4.4.15 Tommy Leu NPO,

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4.4.16 Beegl Dineia, and

4.4.17 Women to women.

- 4.5 The NLCNC office is relatively small and as such there is a high possibility that each official / employee may be personally or otherwise linked and/or close to one another and as such, should the SIU submit a request for information or documents to the NLCNC following an ordinary request for information procedure, there is a reasonable ground to believe that such information or documents could be destroyed by some official(s) or employee(s) of the NLCNC in order to protect one another and/or to evade accountability emanating from the alleged corrupt activities by certain officials/employees of the NLCNC.

5. THE JURISDICTION OF THE COURT

5.1 It is submitted that the place of business of the NLCNC is situated at 11A Schmidt's Drift Road, Kimberly and Aobakwe Gaobuse's house, House No.29 Swanns Way street, Rhodesdene, Kimberley.

5.2 I submit therefore that Kimberly Magistrate's Court has jurisdiction in this matter.

6. THE DOCUMENTS, BOOKS, COMPUTERS AND OBJECTS

- 6.1 It is submitted that the following documents, books, computers and objects will be searched for, seized and attached from the premises:
- 6.2 All original and/or copies of procurement related documents for award of Charity, Arts & Culture and Sports & Recreation grants for the period 1 January 2014 to 6 November 2020;
- 6.3 All original and/or copies of needs assessments documents related to Proactive Funding grants for the period from period 1 January 2014 to 6 November 2020.
- 6.4 All original and/or copies of the application forms for funding for Charity, Arts & Culture and Sports & Recreation grants for period 1 January 2014 to 6 November 2020.

- 6.5 All recorded and/or handwritten minutes of meetings related to funding for Charity, Arts & Culture and Sports & Recreation grants for period 1 January 2014 to 6 November 2020.
- 6.6 All original and/or copies of financial statements reflecting the total financial assistance received by the Charity, Arts & Culture and Sports & Recreation grants for the period 1 January 2014 to 6 November 2020.
- 6.7 All original and/or copies of agreements concluded with recipients of grants for Charity, Arts & Culture and Sports & Recreation grants and NLC from 1 January 2014 to 6 November 2020.
- 6.8 All original and/or copies of correspondence between employees of the NLC and recipients of grants for Charity, Arts & Culture and Sports & Recreation grants from 1 January 2014 to 6 November 2020.
- 6.9 All original and/or copies of reports related to funds granted to NPO's for the period from 1 January 2014 to 6 November 2020.
- 6.10 Remove any object, book or document referred to in paragraph 6.2 to 6.9 above, from the identified premises.
- 6.11 The above list is by no means exhaustive but an indicative of the type of information and/or documents which may be relevant to SIU investigation. In the same breath, section 6 (3) (e) and (f) of the SIU Act, authorise the SIU to attach anything on or in the premises which has a bearing on the investigation; and to retain anything contemplated above for further examination or for safe custody, remove it from the premises against the issue of a receipt.

7. **THE TIME OF THE ENTRY, SEARCH AND SEIZURE**

It is submitted that the entry, search and seizure will be conducted with due regard of order and decency and between the period of sunrise and sunset.

8. **POTENTIAL PREJUDICE**

- 8.1 It is submitted that there may be very serious and irreparable prejudice to the SIU's interests, which is the investigation of the matter as referred to in the Proclamation, should this warrant not be granted immediately.
- 8.2 On the other hand, I respectfully submit that the NLC and all other persons will not suffer any undue prejudice if the said warrant is granted. If there is a need

to attach and remove any books, objects or documents, NLC and all persons listed above are protected by the provisions of Section 6(3)(f) of the SIU Act and they will be supplied with a detailed inventory of all such affected books, documents or objects and further that any book, document or object so removed and which is not intended to be presented as evidence in subsequent proceedings before a Special Tribunal or a court of law, such records would be returned as soon as practicable after the purpose for which it was removed, has been achieved.

8.3 In conclusion the following is submitted that:

8.3.1 Section 6(5) of the SIU Act enable any member of the SIU to apply for an entry warrant.

8.3.2 The objects, subject to the search can provide proof of the allegations contained in the Proclamation.

8.3.3 Should a Notice in terms of section 5 of the SIU Act (i.e request for information) be served to the NLC to obtain the required documents, books, computers and objects to use as evidence to prove the alleged irregularities, the evidence may be destroyed or tampered as some of the officials/employees of NLC as well as all persons listed under paragraph 4.4 above are persons of interest to the SIU's investigation under the authority of this Proclamation.

8.4 I accordingly and respectfully request that the application is granted, a search and seizure warrant issued in accordance with the draft search and seizure warrant, and authorise the listed persons to search and seize the documents and items mentioned in the warrant.

Do you know and understand the contents of this declaration yes?

Do you confirm the correctness of the contents of this declaration yes?

Do you have any objection taking the prescribed oath No?

Do you consider the prescribed oath to be binding on your conscience yes?



Deponent

G. J

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit and confirmed the correctness of the contents. He has no objection to taking the prescribed oath and considers same to be binding on his conscience.

NS
G.J. ^{Kimberley} Pretoria on this 09 day of March 2022 at 14h 30.

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Commissioner of Oaths

Name: Gerard Jantjies

Rank: Constable

Pen No: 7119344-8

South African Police Service

31 Phikamija Mabija Street

Kimberley 8301

SOUTH AFRICAN POLICE SERVICE
OFFICE OF THE STATION COMMANDER KIMBERLEY CSC
2022 -03- 09
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SOUTH AFRICAN POLICE SERVICE