

SPECIAL TRIBUNAL
[Established in terms of section 2 of Act 74 of 1996]

CASE NO: GP/04/2020

In the matter between:

THE SPECIAL INVESTIGATING UNIT First Applicant

THE MINISTER OF WATER AND SANITATION Second Applicant

and

**SYSTEMS APPLICATIONS PRODUCTS
(SOUTH AFRICA) (PTY) LTD** First Respondent

SIFISO MKHIZE Second Respondent

ZANDILE MAKHATHINI Third Respondent

NDILEKA MOHAPI Fourth Respondent

NBS INFOSYS (PTY) LTD Fifth Respondent

**MATSEI TECHNOLOGIES AND CONSULTING
(PTY) LTD** Sixth Respondent

**AFFIDAVIT IN RESPECT OF THE
FINAL SETTLEMENT AGREEMENT**

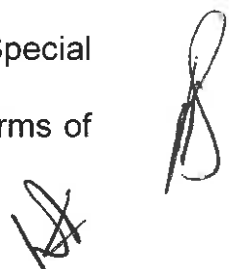
I, the undersigned

JASON ERIC SCHMIDT

do hereby make oath and say that:

DEPONENT

1. I am an adult male and a Principal Forensic Lawyer of the Special Investigating Unit (“SIU”), the Applicant herein, appointed in terms of



section 3(2) of the Special Investigating Units and Special Tribunals Act No. 74 of 1996, as amended.

2. I am duly authorised to depose to this affidavit.
3. The contents of this affidavit are within my personal knowledge unless indicated to the contrary and are all to the best of my belief true and correct. Further, I have under my control or access to all relevant documents which documents are attached to the founding affidavit.
4. Where I make submissions of a legal nature, I do so on the strength of the advice of my legal representatives, which advice I accept as correct.

INTRODUCTION

5. The Applicants and the First Respondent reached a full and final settlement of the remainder of the disputes and matters between them relating to the licence agreements.
6. Accordingly, SIU will also rely on the Departments affidavit at the hearing of this matter.

CONCLUSION OF THE 2015 & 2016 AGREEMENTS

7. The background and circumstances that led to the conclusion of both the 2015 and 2016 agreements has been set-out in the founding affidavit.

8. It is common cause between the parties that both agreements did not comply with the provisions of section 217 of the Constitution, PFMA, Treasury Regulations and the Department's SCM policies. It is on this basis that the parties reached an agreement that both agreements must be reviewed and set aside.
9. Pursuant to the 2015 and 2016 agreement the Department of Water and Sanitation ("the **Department**") paid the First Respondent ("**SAP**") an amount of R413 121 283.40 (four hundred and thirteen million, one hundred and twenty one thousand, two hundred and eighty three thousand rand and forty cents).
10. The conclusion of the afore agreements emanate from elaborate scheme devised by the employees of SAP, the erstwhile employees of the Department and the sale commission partners, whilst they were fully aware that the 2012 agreement was in place and there was no need for the 2015 and 2016 agreements. This aspect has been fully dealt with in the founding papers.
11. In March 2022 the parties agreed that the First Respondent will pay R263,282,173.78 and the remainder of the amount that was in dispute to be determined was an amount of R81 502 073.62 (eighty one million, five hundred and two thousand and seventy three rand and sixty two cents).




FULL AND FINAL SETTLEMENT

12. The First Respondent has since agreed to pay the full outstanding amount of R81 502 073.62 within 5 days to the of the order to Second Applicant.
13. Consequently, this agreement will extinguish the dispute between the parties and the matter will be finalized.

CONCLUSION

14. Accordingly, the Applicants seek an order making the settlement agreement an order of the Tribunal by agreement between the parties.



JASON ERIC SCHMIDT

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at East London on this 26 day of **September 2022**, and that the Regulations contained in Government Notice R1648 of 19 August 1977, as amended, have been complied with.



COMMISSIONER OF OATHS

FULL NAMES: Wame Kirsten
STREET ADDRESS: 59 Western Ave
CAPACITY: Snr Admin Clerk.
AREA: EL

