



the doj & cd

Department
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE STATE ATTORNEY: JOHANNESBURG

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Your ref: DEM16/0063/E JONKER

Date: 22 March 2018

MINDES SCHAPIRO & SMITH ATTORNEYS
P.O. BOX 4040
TYGER VALLEY
7536

E-MAIL: elzanne@mindes.co.za

Dear Sirs

RE: LEGAL FEES: J.G. ZUMA- CASE NO 19577/09: NORTH GAUTENG HIGH COURT

1. We acknowledge receipt of your letter dated 14 March 2018 addressed to the President, in which you request a response to questions related to the above subject matter by 22 March 2018.
2. After consultation between the Presidency and Department of Justice, we hereby provide a response to your questions:

(Always quote my reference number)

STATE ATTORNEY: K G Lekabe (B Proc, LLB, LLM) DEPUTY STATE ATTORNEYS: A S P Botha (BA, LLB, LLM); T Pillay (B Proc); T W Sekwati (B Iuris, LLB); Z N S O Nhlaysi (B Proc); V Dhulam (B Proc, LLM) SENIOR ASSISTANT STATE ATTORNEYS: B Du Preez (B. Iuris, B Proc); M C Engelsman (BA, LLB); A H Fouche (B Proc, LLB); D D Govender (B Proc); W R I Mabitsela (B Proc, LLB); I V); S L Makenna (B Proc); N Gcawu (B Proc); S J Manithana (B Proc); J Z S Mkata (B Proc)(LLB) (B Proc); L Flatela (B Proc, LLM); V Malherbe (B Iuris)(LLB) ASSISTANT STATE ATTORNEYS: ; H T Higa (B Proc); N T Hongo (BA Economics and Accounting, LLB); D Lebenya (B Proc); H S Linda (BA, LLB); I T Malape (LLB);, LLB); M H Maponya (B Proc); Ec Matlou (B Iuris, LLB); H T Ngobeni (B Iuris, LLB); B P N Nkoana (LLB); A M Sethunya (LLB); C T Sethatole (B Proc, LLB); L E Kokotla (LLB); S Nyawo (B Iuris)(LLB); R R Nemaikonde (LLB, LLM); D Mphephu (B Proc);

AD PARA 4.1

- 2.1. The decision to provide to Mr Zuma legal representation at state expense was taken in accordance with section 3(1) of the State Attorneys Act 56 of 1957.
- 2.2. This decision was taken by the Presidency in 2006. After receiving the request for legal representation the Presidency sought advice from the Minister of Justice and the State Attorney.
- 2.3. The decision was based on advice from the Chief State Law Advisor (Mr Daniels), the Director-General in the Department of Justice (Adv Simelane), the Minister of Justice (Minister Mabandla) and the State Attorney (Ms Mosidi).
- 2.4. All the officials referred to in para 4 above recommended the provision of legal representation at state expense under section 3 of the State Attorney Act.
- 2.5. The Presidency at the time was further advised that there may be circumstances in which a private attorney may be engaged in order to provide legal representation to a government official or department. The Presidency was also advised that the circumstances of this particular request warranted the appointment of a private attorney on the basis that there may exist a conflict of interest were the state attorney to be engaged in providing legal representation or a perception of a conflict of interest.
- 2.6. The decision was subject to the undertaking by former President Zuma to refund the legal costs incurred by the State in the event that his defence is unsuccessful. We have been unable to locate a written agreement between the Presidency and Mr Zuma in this respect.

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2.7. However, we have been provided with an undertaking dated 22 August 2006 signed by Mr Zuma and attach it hereto as Annexure A. A second undertaking was made on 26 September 2008, which is attached hereto as Annexure B.

AD PARA 4.2

2.8. The Presidency, at the time, was advised that the basis for the application of section 3 of the State Attorney Act was that the charges concerned government; that they relate to Mr Zuma's activities while he held political office as an MEC in KZN and later was required to answer questions as Deputy President; and that the matter is of public import.

AD PARA 4.3

2.9. As stated earlier, the undertaking to afford Mr Zuma legal representation at the State's expense was taken in terms of section 3(1) of the State Attorney Act. This undertaking was also duly communicated to him (through his lawyers) on more than one occasion. Due to the fact that the Presidents who came after the undertaking was signed are the successor in title in the President's office, they assume the obligation created in the undertaking. The office of the Presidency is therefore bound by that decision and must continue paying for Mr Zuma's legal fees on the basis that it undertook to do so until such time as the decision is reviewed and set aside by a court.

AD PARA 4.4

2.10. The PFMA and the Treasury Regulations require the accounting officer in the Presidency (as a Department) to ensure that there is sufficient funding for expenditure that it undertakes to cover. This necessarily means that there must be a budget provided for Mr Zuma's legal fees. In order to continue fulfilling its obligations under the PFMA and the Treasury Regulations, the accounting

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officer in the Presidency will request Mr Zuma's legal representatives to provide estimates of how much they will require in order to render their services to Mr Zuma in the criminal trial. In turn, the office of the Presidency will seek to ensure that such estimated costs are reasonable and budgeted for.

3. I trust that this response is of assistance.

Yours faithfully


V DHULAM (Mr)
FOR/ STATE ATTORNEY
JOHANNESBURG

(Always quote my reference number)

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"A"

APPLICATION AND UNDERTAKING

I, JACOB ZUMA, hereby apply for legal assistance at the State's expense in a criminal case in which I am accused of two counts of corruption.

1. I request that the State Attorney appoint the below-stated lawyers to conduct the case on my behalf:
 - 1.1 The firm of Hulley & Associates, Durban.
 - 1.2 Advocates K.J. Kemp SC, Advocate J. Brauns SC, Advocate T. Mbongwa and Advocate M. Smithers.
2. That the said Hulley & Associates be permitted to instruct a firm of accountants for the purposes of advising on the audits report and to further assist in the conduct of Mr Zuma's defence.
3. I hereby undertake on demand to refund to the State Attorney all costs incurred by the State Attorney in connection with my defence should the court find that I acted in my personal capacity and own interests in the commission of alleged offences. The demand to refund all costs incurred will still be in the discretion of the State Attorney.
4. I am aware that legal representation by the State Attorney does not preclude her office from acting against me on behalf of the State in any separate case arising out of this matter or related thereto.

SIGNED AT DURBAN ON THIS 22 DAY OF AUGUST 2006.

AS WITNESSES:

1. 

2. 


JACOB ZUMA

B //

APPLICATION AND UNDERTAKING IN REGARD TO LEGAL
REPRESENTATION AT STATE'S COSTS IN A CRIMINAL CASE AGAINST
MR JACOB GEDLEYIHLEKISA ZUMA

I, Jacob Gedleyihlekisa Zuma, hereby apply for legal assistance at State expense in
criminal case in which I am accused of

1. I request the State Attorney to appoint the below - stated lawyers to conduct the
case on my behalf.

- 1.1 The firm Hulley and Associates, Durban;
- 1.2 Advocate K J Kemp SC;
- 1.3 Two Junior Counsel to assist the Silk;
- 1.4 A Second Senior to assist on ad hoc basis (in consultation with the
State Attorney).

2. I hereby undertake on demand to refund to the State Attorney all costs incurred by
the State Attorney in connection with my defence.

SIGNED at PRETORIA on this 26 day of September 2008

AS WITNESSES:

1.

2.

JACOB G ZUMA