



**PUBLIC PROTECTOR  
SOUTH AFRICA**

**Accountability • Integrity • Responsiveness  
Justice • Good Governance**

*Mutsireledzi Wa Tshitshavha*

**Free State Province:  
Bloemfontein Provincial Office**

P.O. Box 383  
Bloemfontein  
9300

No 169A Nelson Mandela Drive  
Engen House  
Westdene  
Bloemfontein

**Toll free: 0800 11 20 40  
Tel: (051) 448 6172 / 6185 / 7878**

**Fax: (051) 448 6070**

**Website: [www.publicprotector.org](http://www.publicprotector.org)**

**Facebook: Public Protector South Africa**

**Twitter: @PublicProtector**

**Please quote this reference: 7/2-022987/16**

**11 February 2019**

**PER EMAIL: [roy@da.fs.org.za](mailto:roy@da.fs.org.za)**

**Mr. R Jankielsohn (MPL)  
P.O. Box 81  
BLOEMFONTEIN  
9300**

**PUBLIC PROTECTOR**

**11-02-2019**

**PROVINCIAL OFFICE  
FREE STATE PROVINCE**

Dear Sir

**COMPLAINT: SOLICITATION OF DONATIONS FOR PARTY POLITICAL PURPOSES**

Your complaint of 19 October 2016 has reference.

**1. INTRODUCTION**

- 1.1 Section 182(1) of the Constitution provides that the Public Protector has the power to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice, to report on that conduct and take appropriate remedial action. Section 182(2) directs that I have additional powers prescribed in national legislation.
- 1.2 Section 182(2) directs that the Public Protector has additional powers and functions prescribed by legislation.

- 1.3 The Public Protector is further mandated by the Public Protector Act to investigate and redress maladministration and related improprieties in the conduct of state affairs. The Public Protector is also given power to resolve disputes through conciliation, mediation, negotiation or any other appropriate alternative dispute resolution mechanism.
- 1.4 A preliminary investigation was done on allegations of improper conduct in that the Head of the Department (HOD) of the Free State Department of Police Roads and Transport (Department), Mr SJ Msibi, solicited donations from contracted service providers for party political purposes.

## **2. COMPLAINT**

- 2.1 You submitted that the Head of the Department (HOD) of the Free State Department of Police Roads and Transport (Department), Mr SJ Msibi, solicited donations from contracted service providers to assist with payment for a table at an African National Congress (ANC) gala dinner held with President Jacob Zuma on 21 July 2016, two weeks before the municipal elections on 03 August 2016.
- 2.2 You further submitted that these requests for donations to dine with Zuma were on departmental letter-heads and signed by HOD as evidence of alleged blatant ANC corruption through the allocation of tenders that are tantamount to requests for bribes.
- 2.3 You further submitted that these revelations come shortly after the Public Protector report into Operation Hlasela that condemns the conflation of party and State in the Free State.
- 2.4 You submitted copies of three letters addressed to private business enterprises. The letters all contain the logo, address of the Department and are signed by the HOD. The letters read as follows:

***RE: REQUEST FOR DONATION***

***The abovementioned subject bears reference.***

***You are hereby requested to assist with payment of R40 000.00 for a table at the Gala dinner with the President, the above Gala dinner will be held on the 21<sup>st</sup> July 2016.***

***For your convenience kindly find attached information about the event, pertaining to the request.***

***Your favourable consideration for assisting and communication to the undersigned will be highly appreciated.***

### **3. INVESTIGATION**

Our investigation commenced with researching previous Public Protector Reports on related matters. We found the following reports and quote the relevant issues and findings;

3.1 Report on an investigation by the Public Protector into allegation of the improper soliciting of fund for a political party by officials of the Dihlabeng Local Municipality dated 24 November 2003.

3.1.1 The request for funds were for the anniversary celebrations of the ANC on Dihlabeng Local Municipality letter-heads;

3.1.2 The letters stated that the approach for funds is on behalf of the ANC;

3.1.3 The Public Protector found that the request for funds were unlawful, improper and highly irregular and compromised the integrity and credibility of the Dihlabeng Local Municipality.

3.2 Report No 8 of 2011/2012: Report on an investigation by the Public Protector into allegation of improperly soliciting businesses for donation to the African National Congress by Mr C Taute, Executive Mayor of the Hessequa Local Municipality dated 30 June 2011.

3.2.1 The Executive Mayor of the Hessequa Local Municipality addressed letters to companies on the letter-head of the Municipality requesting funds for the ANC.

3.2.2 The Public Protector found that the conduct of the Mayor was unlawful, improper and an act of abuse of power.

3.3 Report No 1 of 2016/2017: Report on an investigation by the Public Protector into allegation of maladministration regarding Operation Hlasela and the Hlasela Fund of the Free State Provincial Government and alleged conflation between state and party dated 5 May 2016.

3.3.1 The government program Operation Hlasela and the private Hlasela Fund had the same name and colours and could cause confusion between government programs and party political programs and could skew implications for electoral fair play.

3.3.2 The Public Protector found this to be a conflation of state and party and resulted in prejudice for other political parties and independent candidates.

#### 3.4 Research

Research was done in respect of the three businesses to whom the letters were addressed. The following was found:

3.4.1 Business number 1. The only information found were business dealings with local municipalities in the Free State;

3.4.2 Business number 2. The information found indicated that this business was appointed as consultant for various projects in the Free State; and

3.4.3 Business number 3. Information indicates that over a period of 4 years pre-dating the complaint the business received tenders from various Free State Provincial Departments to the value in excess of R700 million.

#### 3.5 Correspondence

The Public Protector then addressed the allegations in a letter dated 12 November 2017 to the then Premier of the Free State as the Executing Authority in terms of

section 12(1)(b) of the Public Service Act. The then Premier was requested to indicate the following:

- 3.5.1 Whether or not the businesses to whom the three letters submitted were addressed had any relationships with the Free State government and the nature of the relationship;
  - 3.5.2 Whether the Gala dinner referred to was a departmental function or a party political function;
  - 3.5.3 The amount raised to sponsor the event and specifically the amount received from each of the companies in the three letters submitted; and
  - 3.5.4 The purpose of the event.
- 3.6 Due to the untimely death of the HOD during 2017 the office of the Premier indicated that they cannot respond to allegations in the letter. The gala dinner was a party political event and the reasons for the HOD requesting donations cannot be speculated on.

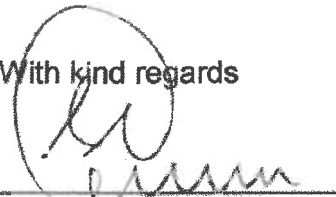
#### **4. APPLICABLE LEGISLATIVE PRESCRIPTS**

- 4.1 Section 195(1) of the Constitution requires that the public administration must be governed by the democratic values and principles enshrined by the Constitution. Subsection 195(1)(a) specifically requires that the public administration must maintain and promote a high standard of professional ethics .
- 4.2 Section 3 of the Public Service Code of Conduct provides that an employee must loyally executes the policies of the Government of the day in the performance of his or her official duties as contained in all statutory and other prescripts.
- 4.3 Section 38(1)(b) of the Public Finance Management Act states that the accounting officer for a Department is responsible for the effective, efficient, economical and transparent use of the resources of the department.

## 5. CONCLUSION

- 5.1 The Public Protector cannot take the matter further and/or make official findings and take remedial action due to the fact that adherence to the *audi alteram partem* rule cannot be adhered to.
- 5.2 However in line with the Public Protector reports referred to above, the late HOD's conduct would suggest that *prima facie* he acted unlawfully, improperly and contrary to legislative prescripts. Please note that no remedial action can, however, be taken against him as he is deceased.
- 5.3 We trust that this meets with your approval and thank you for having entrusted this matter with our office.

With kind regards



**MR SH SAMUEL**  
**PROVINCIAL REPRESENTATIVE**  
**PP-SA(FS)**

## Roy Jankielsohn

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**From:** Vincent Maseko <VincentM@pprotect.org>  
**Sent:** 14 February 2019 11:46 AM  
**To:** Roy Jankielsohn  
**Cc:** Johannes Seitsang; Sisa Mlonyeni  
**Subject:** COMPLAINT: SOLICITATION OF DONATIONS FOR PARTY POLITICAL PURPOSES  
**Attachments:** R Jankielson letter.pdf

**Please quote this reference: 7/2-022987/16**

**14 February 2019**

**PER EMAIL: roy@da.fs.org.za**

**Mr. R Jankielsohn (MPL)  
P.O. Box 81  
BLOEMFONTEIN  
9300**

Dear Sir

### **COMPLAINT: SOLICITATION OF DONATIONS FOR PARTY POLITICAL PURPOSES**

Your complaint of 19 October 2016 has reference.

Kindly take that the Complaint you have raised has been considered by this office. Please find attached copy of the letter as response and/or outcome in respect of your complaint.

We trust you find the above in order.

Adv VN Maseko

#### **Vincent Maseko**

Investigator

**Public Protector South Africa: Bloemfontein**

(T) 051-448-6172 | (C) 060 524 9255

VincentM@pprotect.org

**Taking the services of the Public Protector to the grassroots**

[www.pprotect.org](http://www.pprotect.org)

Tollfree: 0800 11 20 40

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☐ @PublicProtector





**THE OFFICIAL OPPOSITION  
FREE STATE PROVINCIAL LEGISLATURE**

**Tel:** +27 51 407 1234

**Fax:** +27 51 430 8338

**Email:** [secretary@da.fs.org.za](mailto:secretary@da.fs.org.za)

**www.da.org.za**

**P.O. Box 81, Bloemfontein, 9300**

**Date:** 19 October 2016

**To:** Adv. Busisiwe Mkhwebane  
The Public Protector

**From:** Roy Jankielsohn (MPL)  
The Leader of the Official Opposition in the Free State Provincial  
Legislature

**Subject:** Request for investigation into Free State Department of Police,  
Roads & Transport for soliciting donations for party political  
purposes

Dear Adv. Mkhwebane,

On 12 July 2016, the Head of the Department of Police, Roads and Transport in the Free State province sent letters to a number of companies that hold lucrative contracts with the department, requesting them to support a gala dinner with the President that was to be held on 21 July 2016 (see attached examples of such letters). Media searches confirm that the President was in Mangaung during this time as part of the ANC's election campaign. Indications are that the gala dinner was an ANC fundraising event.

We are concerned that pressure was placed on these companies to sponsor the ANC event by buying tables at R40 000 each, using a letterhead of the Department, of Police, Roads and Transport signed by the Head of Department, Mr SJ Msibi, who is by the nature of his position meant to be politically impartial.

Two previous outcomes of investigations by the Public Protector relating to the abuse of a Dihlabeng Local Municipality letterhead to requisition funds from businesses for an ANC event resulted in a condemnation of this in a report released in 2003.

In May this year, the Public Protector chastised the Free State Provincial Government for conflating political party and the State in the report on Operation Hlasela titled, 'State and Party Colours' (Report 1 of 2016/17).

In view of the above, we would request you to investigate this abuse of state resources and influence for party political purposes and the abuse of his position by the HOD for party political purposes.

Your favourable assistance in this regard will be greatly appreciated.

Thank you,

Roy Jankielsohn  
Member of the Free State Provincial Legislature  
Leader of the Official Opposition  
082 562 4120  
[roy@da.fs.org.za](mailto:roy@da.fs.org.za)

**FREEDOM. FAIRNESS. OPPORTUNITY.**

**LEADER:** Mmusi Maimane

**CHAIRPERSON:** Athol Trollip





police, roads & transport

Department of  
Police, Roads and Transport  
FREE STATE PROVINCE

Ref: 06/12/07/2016

To: Molpro Construction (Pty) Ltd  
77 Kellner Street  
Westdene  
Bloemfontein  
9301

Dear Sir,

**RE: REQUEST FOR DONATION**

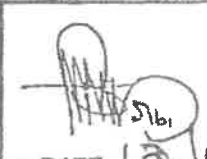
The above mentioned subject bears reference.

You are hereby requested to assist with payment of R40 000.00 for a table at the Gala dinner with the President, the above mentioned Gala dinner will be held on the 21<sup>st</sup> July 2016.

For your convenience kindly find attached information about the event, pertaining to the request.

Your favorable consideration for assistance and communication to the undersigned will be highly appreciated.

Regards,

  
DATE: 12/07/2016  
**S.J. Msibi**  
HoD. Police Roads & Transport

\_\_\_\_\_  
Date

OFFICE OF THE HEAD: POLICE, ROADS & TRANSPORT  
P. O. Box 119, BLOEMFONTEIN, 9300.  
Perm Building, 45 Charlotte Maxeke Street, BLOEMFONTEIN.  
Tel: (051) 4098856, Email: HOD-SEC@freetrans.gov.za

P.W.  
Transport 4 year



police, roads & transport

Department of  
Police, Roads and Transport  
FREE STATE PROVINCE

Ref: 03/12/07/2016

To: Rantsoa Service Providers  
38 Zambzi Street  
Three Rivers  
1929

Dear Sir,

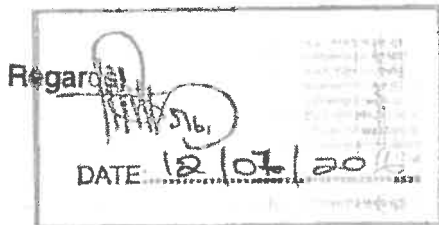
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**S.J Mslibi**  
HoD: Police Roads & Transport

Date

OFFICE OF THE HEAD: POLICE, ROADS & TRANSPORT  
P. O. Box 119, BLOEMFONTEIN, 9300.  
Perm Bldg, 45 Charlotte Maxeke Street, BLOEMFONTEIN.  
Tel: (051) 4098856. Email: HOD-SEC@freetrans.gov.za

www.fst.gov.za

*Municipalities*



police, roads & transport

Department of  
Police, Roads and Transport  
FREE STATE PROVINCE

Ref: 05/12/07/2016

To: VNA Consulting  
596 Ridge Road  
Berea  
Durban  
4001

Dear Sir,

**RE: REQUEST FOR DONATION**

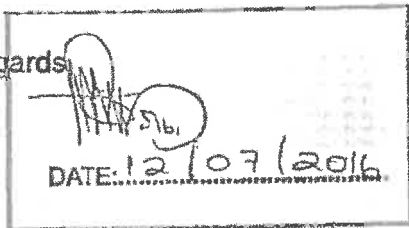
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Your favorable consideration for assistance and communication to the undersigned will be highly appreciated.

Regards,



**S.J Msibi**  
HoD: Police Roads & Transport

\_\_\_\_\_  
Date

OFFICE OF THE HEAD: POLICE, ROADS & TRANSPORT  
P. O. Box 119, BLOEMFONTEIN, 9300.  
Perm Building, 45 Charlotte Maxeke Street, BLOEMFONTEIN  
Tel: (051) 4098856, Email: HOD-SEC@freetrans.gov.za

2016/07/12 15:20

*Bothleham Vogelvoets*