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## AFFIDAVIT

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I, the undersigned, ROLAND ATHOL PRICE TROLLIP, do hereby make oath and state:

1. I am a municipal councillor in the Nelson Mandela Bay Metropolitan Municipality and I am resident in Port Elizabeth.
2. The facts herein deposed to are within my direct knowledge unless it appears from the context or is stated to the contrary and are to the best of my knowledge true and correct.
3. I was the former Executive Mayor within the aforesaid council between the period August 2016 to 27<sup>th</sup> of August 2018.
4. During the aforesaid period an extended investigation into fraud and corruption within the Integrated Public Transport System (IPTS) project was ongoing. Said investigation was launched by the now suspended city manager, Mr Johann Mettler, with assistance from National Treasury.

5. During this time the administration worked very closely with law enforcement agencies so as to ensure that all information relating to fraudulent and/or suspicious activities or transactions within the IPTS project was readily available so that no investigation would be obstructed.
6. It is public knowledge that the current Executive Mayor of Nelson Mandela Bay, Cllr Mongameli Bobani, has been implicated in alleged fraud and/or corruption within the IPTS project as he allegedly solicited and/or received funding and/or unlawfully benefitted from public funds.
7. Cllr Bobani has, during the course of last year, instituted disciplinary action against City Manager, Johann Mettler. Said disciplinary action has seen Mettler being placed on cautionary suspension as from September 2018 already. It is my believe that this move by Cllr Bobani was motivated by the fact that Mettler was the driving force behind the investigation into the alleged corruption and/or fraud within the IPTS project in Nelson Mandela Bay.
8. At council meetings on 28 February 2019, 4 April 2019 (postponed to 9 April 2019), Mongameli Bobani misled council

in order to procure a resolution that the cases handled by the municipality's attorneys (agents), Gray Moodliar Inc (GM) be withdrawn. Many of these cases handled by the firm pertain to conducting disciplinary enquiries and instituting civil claims against NMBM officials and service providers in the Integrated Public Transport System (IPTTS) who were identified in the Deloitte/National Treasury report of August 2015. Such a resolution was adopted by Council on 9 April 2019. At no stage in any of the aforementioned council meetings or during the deliberations on said matter did Bobani disclose his potential conflict of interest in respect of the termination of the Gray Moodliar Inc mandate.

9. The Acting City Manager took steps to implement the resolution and in a letter to the Gray Moodliar Inc, dated 16 April 2019 (emailed on 17 April 2019), he informed that all the mandates given to Gray Moodliar in legal matters are withdrawn, in accordance with council's aforementioned resolution. **The letter is attached hereto as "Annexure A".**
10. Two cases of relevance are dealt with in this statement, viz. Heerkos and Le Roux Inc. There are other cases.

## 10.1 HEERKOS

- 10.1.1 One of the matters affected by Bobani's actions is the High Court action under case number 2713/18, instituted by the municipality against Heerkos Projects CC (1st defendant), Fareed Fakir (2nd defendant) and Mhleli Tshamase (3rd defendant).
- 10.1.2 In this matter, the municipality claims payment from the defendants of R 9 895 838.40 wherein it avers, inter alia, that the Municipality did not receive value for the amount paid, that the Municipality has been impoverished in the amount of R9 895 838.40 and that the 3rd defendant breached his obligations to the Municipality, and accordingly, that NMBM enjoys reasonable prospects of success in a claim for damages against the defendants.
- 10.1.3 The Hawks deposed to an affidavit in support of an application for seizure of Bobani's computers, wherein it is averred that Heerkos is the entity that paid the sum of R 664 000.00 to Bobani between April 2014 and May 2015, and this relates to the submission of an invoice

by Heerkos to the NMBM in respect of a rates claim for the development of the E-Tendering Solutions.

- 10.1.4 The NMBM paid the amount of R 9 895 838.40 to Heerkos, however it did not receive the E-Tendering solution or any value whatsoever, and accordingly suffered damages.
- 10.1.5 The seizure application deals with the same subject matter as that of the High Court litigation under case no. 2713/18.
- 10.1.6 The municipality has an obligation under, *inter alia*, the Local Government: Municipal Finance Management Act 56/2003 to recover the said amounts.
- 10.1.7 Bobani stands to benefit if the Heerkos case is not pursued, and his actions are an attempt to influence Council and/or the City Manager and/or Gray Moodliar Inc (an agent of the municipality) and thereby influence the outcome of the matter, and the municipality's statutory obligation to recover monies.

**10.2 LE ROUX INC / DAVID LE ROUX / RICH REWARDS  
ASSOCIATES / FREDERICKS INC / TSHAMASE /  
MBAMBISA**

10.2.1 This is a High Court action (case number 4186/17) against Le Roux Inc, David le Roux on the basis of breach of contract for failing to advise officials and councillors that the appointment of Jarami Projects cc trading as Project Assist Group (Fakir entity), Ozran 16(Pty) Ltd trading as Rich Rewards and Fredericks Inc as sub-consultants was contrary to the requirements of the Supply Chain Management Policy (SCMP) and the MFMA. Furthermore, he failed to advise the municipality that it was contrary to the delegations and the subversion of the SCMP and charging a 10% mark-up on invoices submitted by the sub-consultants in circumstances where no value was received.

10.2.2 The claim is for damages paid to these defendants and incurring of unauthorised, irregular, fruitless and wasteful expenditure. The municipality has claimed that Jarami's payment is contrary to the SCMP and claims

payment of R15 533 412.97 for unjust enrichment alternatively cancellation and payment of this amount.

11. Section 119 of the Local Government Municipal Systems Act, 32/2000 provides:

*(1) A councillor who attempts to influence the municipal manager or any other staff member or an agent of a municipality not to enforce an obligation in terms of this Act, any other applicable legislation or any by-law or a decision of the council of the municipality, is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding two years.*

*(2) A municipal manager or other staff member of a municipality who accedes to an attempt mentioned in subsection (1), is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding two years.*

*(3) A person who contravenes section 101 is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year.*

*(4) A person convicted of an offence and sentenced to more than 12 month's imprisonment without the option of a fine, is disqualified to remain a councillor of the municipality concerned and to become a councillor of any municipality during a period of five years as from the conviction.*

12. Given the aforementioned facts, I herewith lay criminal charges against Cllr Mongameli Bobani, Executive Mayor of Nelson Mandela Bay, as well as Mr Peter Neilson, Acting City Manager of Nelson Mandela Bay.
  
13. I furthermore refer you to the criminal charges that I brought against Cllr Mongameli Bobani on the 13<sup>th</sup> of March 2019 in respect of the Prevention and Combatting of Corrupt Activities Act, 2004. These charges were instituted at Humewood Police Station and case number..... refers. A copy of the charges that was brought in that matter is annexed hereto as Annexure "B".

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ROLAND ATHOL PRICE TROLLIP

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 on this 24<sup>th</sup> day of April 2019 at Port Elizabeth. In administering the oath, the requirements of Regulation R2477 dated 16 November 1984, as amended, have been complied with.

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COMMISSIONER OF OATHS