

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case No.: 016758/2024

In the matter between:

MINISTER OF PUBLIC ENTERPRISES First Applicant

DEPARTMENT OF PUBLIC ENTERPRISES Second Applicant

and

**MANGO AIRLINE SOC LIMITED (IN
BUSINESS RESCUE AND TWO OTHERS** First to Third Respondents

MINISTER OF FINANCE Fourth Respondent

NATIONAL TREASURY Fifth Respondent

**THE INTERNATIONAL AIR SERVICE
COUNCIL AND THREE OTHERS** Sixth to Ninth Respondents

**MINISTER OF FINANCE AND NATIONAL TREASURY'S AFFIDAVIT IN
SUPPORT OF RELIEF SOUGHT BY APPLICANTS**

I, the undersigned

KANTORO ISAAC CHOWE

do hereby make oath and state that:



1. I am an attorney at the State Attorney, Pretoria and am the Minister of Finance and National Treasury's (collectively "**Finance Respondents**") attorney of record.
2. By virtue of my position, I am duly authorised to depose to this affidavit on behalf of the Finance Respondents, who are cited as the fourth and fifth respondents respectively.
3. The facts contained herein are, unless otherwise stated or the context indicates the contrary, within my knowledge and belief, and are true and correct. Where I make legal submissions, I do so based on my own legal expertise and on the advice of the Finance Respondents legal representatives.
4. Any legal submission are made on the advice of Finance Respondents' legal representatives, which advise I accept as correct.

A. OVERVIEW

5. On or around 14 February 2024, "**Public Enterprises**" — the Minister of Public Enterprises ("**MPE**") and the Department of Public Enterprises ("**DPE**") — instituted urgent proceedings in this court for a hearing on Tuesday, 27 February 2024.
6. Public Enterprises seeks orders:
 - 6.1. staying the execution of the order and judgment granted by Phooko AJ on 6 September 2023 ("**High Court Judgment**");
 - 6.2. interdicting Mango Airlines SOC Limited (in Business Rescue) ("**Mango**") and Siphon Eric Sono N.O. ("**BRP**") from selling and/or

finalising the investor process with South Africa Airways (“**SAA**”) pending the finalisation of the appeal process pending before the Supreme Court of Appeal;¹ and

6.3. interdicting SAA from selling and/or finalising the investor process with Mango and the BRP pending the finalisation of the appeal process pending before the SCA.

7. The Finance Respondents support the relief sought by Public Enterprises at prayers 1 to 4 of the Notice of Motion. This affidavit sets out the basis for that support. (I pause here to mention that Public Enterprises also seeks an order of costs against “*any other Respondent cited*” in the application. The Finance Respondents who cited as the fourth and fifth respondents oppose any order of costs against them.)

8. This affidavit is structured as follows:

8.1. Chapter B sets out the material facts;

8.2. Chapter C sets out the grounds of urgency;

B. MATERIAL FACTS

B.1 Background Facts

9. As Public Enterprises states, much of the background facts to this application appear in the High Court Judgment.² The Finance Respondents align themselves with the further facts averred in Public Enterprises and in the

¹ Public Enterprises NOM at 01 prayers 2 to 4.

² Public Enterprises FA at 01-11 para 22.

paragraphs below supplement that iteration of material facts with those most relevant to the Finance Respondents. The iteration below is restrained as these facts are before the SCA in the special application for leave to appeal.

10. SAA is Mango's exclusive shareholder. Both Mango and SAA are state-owned companies subject to the Public Finance Management Act 1 of 1999 ("**PFMA**"). Mango's business rescue plan calls for the disposal by SAA of its shareholding in Mango to a strategic equity partner and for the attainment of the MPE's approval for such transaction in terms of section 54(2) of the PFMA.
11. In April 2013, the Government of the Republic of South Africa entered into a Guarantee Framework Agreement with SAA in terms of which the Government provided a guarantee in the amount of R5 billion to SAA. Clause 1.2.6 of the Guarantee Framework Agreement obliged SAA to seek the approval of the Minister of Finance (as well as the PE Minister) in any transactions undertaken in terms of section 54 of the PFMA.
12. The guarantee for R5.006 billion was granted on 28 September 2012 for a period of two years. The guarantee was extended and converted into a perpetual guarantee on 29 November 2013. A letter confirming such extension is attached as "**NT1**".
13. The Guarantee Framework Agreement will expire when SAA debt has been finally extinguished that has not yet occurred and consequently, SAA continues to file monthly reports to the National Treasury and the Department of Public Enterprises in terms of the Guarantee Framework Agreement.

14. Therefore, in addition to obtaining the MPE's approval for the transaction, SAA would have to obtain the Minister of Finance's approval for a transaction disposing of its shareholding in SAA.
15. On 29 September 2022, SAA forwarded an application for section 54(2) approval that had been prepared by the BRP for the MPE's consideration but in the covering letter expressed reservations for the transaction. SAA did not seek the Minister of Finance's approval for the transaction, it merely copied the National Treasury on the request for approval to the MPE.
16. On 25 October 2022, the Deputy Director-General: Asset and Liability Management Division addressed a letter to SAA which stated that the guarantee conditions require SAA to seek joint approval of any applications under section 54(2) from both the PE Minister and the Minister of Finance. In addition, the Minister of Finance sought reasons for SAA's view that there was no strategic role for Mango within the SAA group. Given that the government had already allocated R819 million to restructure Mango, the Minister of Finance sought clarity as to why SAA concluded it was not necessary to motivate for additional funding to complete the Mango business rescue process and return Mango to commercial operation.
17. In light of SAA's concern with the section 54(2) application, the letter queried SAA's support for the application and requested that it complete its due diligence process and address all concerns before seeking government's approval for the transaction. Additional information was sought from SAA's board and which was advised that the 30-day period for approval would only commence once all the

information had been submitted in full and sufficient detail to allow appropriate recommendations to be made to the Minister of Finance.

18. The information requested by the National Treasury in response to the September Application was not only rightfully sought but absolutely necessary for the National Treasury to get a sense of the current state of affairs at Mango, the reason for the state of affairs at Mango, and SAA's rationale for its support of the transaction. This information will enable the National Treasury to make a cost-benefit analysis and thus to determine whether to approve the transaction and if it does on what terms to do so.
19. On 28 November 2022, the SAA's board submitted a second section 54(2) application ("**November Application**"). It is important to note that this November Application was prepared by SAA's board without having regard to the National Treasury's letter of 25 October 2022. In a letter from SAA's chairperson dated 19 January 2023, the chairperson indicated that it only received the letter on 14 December 2022 — two months after the letter had been sent and more than two weeks after the November Application had been submitted.
20. The November Application was unsatisfactory; SAA's board was informed of the MPE and National Treasury's concern in a meeting convened on 14 December 2022.
21. On 20 December 2022, the SAA's board chairperson addressed a letter to the BRP advising the latter that the November Application is not valid and that the 30-day consideration period would only commence on the date of a full submission.

22. Again, on 11 January 2022, the SAA's board chairperson advised the BRP that the November Application would have to be submitted to both the PE Minister and the Minister of Finance. He further stated that he would address the concerns raised in respect of the November Application.
23. On 19 January 2023, the BRP addressed a letter to SAA stating that no further information would be forthcoming from the BRP and demanding that the PE Minister make a decision within 10 business days.

B.2 High Court Litigation

24. On or around 8 February 2023, Mango and the BRP instituted urgent proceedings in this court in which they sought, among other things, (a) a declaration that they submitted a valid application; and (b) a declaration that they (together with SAA) were entitled to assume that approval had been granted in terms of section 54(3) of the PFMA. Alternative relief was also sought. The notice of motion is attached as "NT2".
25. On 15 February 2023, the National Treasury addressed a letter to SAA which confirmed that the November Application did not address the National Treasury's concern. The National Treasury's letter confirmed that the 30-day period would only commence once all additional information had been submitted and requested that SAA complete all outstanding information before it submitted its application anew.
26. On 21 February 2023, SAA stated that it would be improper to engage with a substantive response to the National Treasury's letter as it would compromise a



response to the application that had been instituted by the Mango Respondents in the High Court. This stance by SAA brought the section 54 process to a halt pending the outcome of the application instituted by the BRP.

27. NUMSA intervened seeking the following order: (a) the failure by the PE Minister to approve the application be reviewed and set aside; and (b) declaring that the Mango Respondents are entitled to assume approval has been granted.

28. On 6 September 2023 the High Court made the following order:

“(c) It is declared that the [PE Minister’s] failure to take a decision in respect of the application submitted by [the Mango Respondents and SAA] in terms of section 54(2) of the PFMA is unlawful and constitutionally invalid.

(d) The [PE Minister’s] failure to determine the section 54(2) PFMA application is reviewed and set aside.

(a)[sic] The [PE Minister] is directed within 30 days after the service of the Court order, to take a decision in respect of the section 54(2) application and communicate the outcome thereof to the [Mango Respondents and SAA] including furnishing such reasons for the decision made, failing which the [Mango Respondents and SAA] may assume that the section 54(2) application has been approved by operation of section 54(3) of the PFMA.

(b) The [PE Respondents and Finance Applicants] are ordered to pay the costs of this application, including the costs of two counsels [sic], jointly and severally.”

29. On 13 December 2023, the Finance Applicants and PE Respondents’ applications for leave to appeal were dismissed.

B.3 SCA Litigation

30. The Superior Courts Act provides that a petition for leave to appeal to the SCA must be filed within a month of the refusal of the High Court to grant leave to

appeal. That means that the petition ought to have been filed on 13 January 2024. Given that the 13th of January 2024 fell on Saturday, the application for special leave to appeal was due for filing on 15 January 2024.

31. The National Treasury's application for special leave to appeal was finalised ahead of the filing date and deposited to on 12 January 2024.
32. Ms Phetolo Mokoena, the Finance Respondent's attorney, effected service of the application on all but two of the respondents by 12 January 2024. The only two respondents to whom service could not be effected on 12 January 2024 were the seventh and eighth respondents, the International Air Services Council and Air Services Licensing Council.
33. Ms Mokoena was informed by the correspondent attorney that service of the special leave to appeal must be effected on all of the respondents (even those who did not participate in the matter before the court *a quo*). She was further informed that service by way of email had to be confirmed by means of a confirmation of receipt from the recipient.
34. Ms Mokoena resisted serving on the seventh and eighth respondents by email because the seventh and eighth respondents historically did not confirm receipt of proceedings served by way of email in the court *a quo*. Given that she thought it best to effect service physically.
35. Ms Mokoena accordingly requested that Mr Ronny Baloyi (the team assistant in Legal Services at the office of the National Treasury) effect physical service on the seventh and eighth respondents.



36. Mr Baloyi attended the offices of the seventh and eighth respondent on 12 January 2024 and was advised by the receptionist at the building that the officials for these respondents were not available. The receptionist refused to accept service of the application.
37. Mr Baloyi attended at the offices of the seventh and eighth respondents again on 15 January 2024. He was advised that the officials were in a meeting and still could not effect service on them physically. Mr Baloyi deposed to an affidavit which set out his efforts. It is attached as annexure "NT3".
38. In light of the difficulties attendant with affecting service physically, Ms Mokoena emailed Phumudzo Nembudani, of the seventh and eighth respondents on 15 January 2024 at around 10:34 and forwarded the email to Thandeka Ncala and Thabang Mashabela on the same day at 13:58, as proof that Phumudzo Nembudana read the email. That email is attached as "NT4".
39. On 16 January 2024, the Finance Respondent's correspondent attorney attempted to lodge their application for special leave to appeal. That application cited the Minister of Public Enterprises and the Department of Public Enterprises as the fourth and fifth respondents. This approach was correct as the Finance respondents had not been given the authority to bring the application on behalf of Public Enterprises. Be that as it may, the Registrar refused to accept the application on that basis and instructed the Finance Respondent's correspondent attorney that those parties should be cited as co-applicants. That is reflected in annexure "DPE6" to the Public Enterprises founding affidavit.

40. Ms Mokoena learned that the Minister of Public Enterprises and Department of Public Enterprises also intended to appeal the High Court Judgment. In light of that fact that the Finance Respondents had their application for special leave to appeal redrafted to reflect the Minister of Public Enterprises and Department of Public Enterprises as third and fourth applicants and deposed to on 18 January 2024. Their application for special leave to appeal was attached to the Public Enterprises application for special leave to appeal. Both Public Enterprises and the Finance Respondents sought condonation from the Supreme Court of Appeal for the late filing of the application for special leave to appeal.
41. The Finance Respondent's affidavit was deposed to on 18 January 2024. Public Enterprises and the Finance Respondent's application for special leave to appeal was served on Mango and the BRP on 18 January 2024. It was couriered to the correspondent attorney for filing on 18 January 2024.
42. On 24 January 2024, Ms Mokoena addressed an email to the correspondent attorney questioning whether the applications had been filed. Ms Mokoena did not receive a response to her request. Her email is attached as "NT5".
43. As it turns out, the correspondent attorney failed to file the applications at court for a period of 18 (eighteen) calendar days. Proof that the application was filed on 6 February 2024 is attached as "NT6".
44. While this is unfortunate, the only parties on whom prejudice falls is the Public Enterprise and the Finance Respondents as it delays the consideration of their applications for special leave to appeal and condonation. Mango and the BRP do not experience any prejudice as they have been aware of the intent to appeal

the High Court Judgment and were served with all the applications for leave to appeal — the Finance Respondent's first application; Public Enterprises application and the Finance Respondent's second application.

45. The applications for leave to appeal and condonation are currently before the SCA. I am advised and accept that once the respondents file answering affidavits and Public Enterprises and the Finance Respondents file replying affidavits, the SCA will consider the condonation application and special leave to appeal jointly. They do not consider these applications and grant the orders sequentially — first consider the condonation application, and once they have done so the application for leave to appeal. Only one order is delivered by the two judges who consider the application for leave to appeal. In other words, practically speaking, it is not only the condonation application before the SCA but also the application for leave to appeal.

46. The implementation of the High Court Judgment in those circumstances would render the application for leave to appeal moot and detract from the SCA's power to consider the dispute. This would severely hamper the administration of justice and deny the Finance Respondents and Public Enterprises due process. Especially in light of the fact that the Finance Respondents were not the cause for any delay:

46.1. They brought their application on time but had difficulty serving on parties not relevant to the dispute and were not allowed to file their application due to the incorrect assertion by the SCA's front office that Public Enterprises had to be cited as respondents.

- 46.2. They quickly deposed to an amended application for leave to appeal but this was not promptly filed by the correspondent attorney through no fault of the Finance Respondents.
47. The delay is not significant but the prejudice to the Finance Respondents if the execution is not stayed is enormous. They will be denied justice where they aver that appeal ought to be granted on both basis: reasonable prospects of success and compelling reasons. Their grounds which appear in the notice of application for leave to appeal³ include the High Court's:
- 47.1. Inherent contradictions apparent in the High Court Judgment concerning a valid application;
 - 47.2. Conflation of the shareholder (SAA) with the asset (Mango);
 - 47.3. Erroneous finding on legal standing;
 - 47.4. Incorrect interpretation of section 54(3) of the PFMA;
 - 47.5. Erroneous finding that that the agreement between the MPE and SAA was invalid (when no such relief had been sought);
 - 47.6. Flawed award of review relief;
 - 47.7. Failure to consider guarantee conditions.
48. As to the latter, it should be noted that the Finance Respondents relied on the strict condition of a guarantee issued in favour of SAA. The submission was that the approval of both the MPE and the Minister of Finance was required where

³ Public Enterprises FA annexure DPE2 at 03-67.

SAA intends to undertake transactions in terms of section 54(2) of the PFMA. In other words, SAA's sale of its shareholding in Mango requires the approval of both the MPE and the Minister of Finance.

49. In the Main Judgment, the High Court noted the Finance Minister's submissions regarding the guarantee conditions.⁴ It however did not engage any further in these submissions as it ought to have done. This failure deprived the Finance Respondents of reasoning related to this important issue.
50. Guarantee conditions were binding on the entity in whose favour they are granted. They are a constitutional matter: section 218(1) of the Constitution provides that "[t]he national government, a provincial government or a municipality may guarantee a loan only if the guarantee complies with any conditions set out in national legislation." The PFMA, at section 70(1), provides as follows:

"A Cabinet member, with the written concurrence of the Minister (given either specifically in each case or generally with regard to a category of cases and subject to any conditions approved by the Minister), may issue a guarantee, indemnity or security which binds —

. . .

(b) a national public entity referred to in section 66(3) (c) in respect of a financial commitment incurred or to be incurred by that public entity."

51. Given their importance, it is necessary that the Finance Respondent's submissions on this point be heard and considered by the SCA. Refusing urgent relief in this case would deny that.

⁴ Main Judgment paras 150 and 151.

C. URGENCY

52. The urgency in this matter is self evident. Public Enterprises promptly brought the application after unsuccessfully asking Mango and the BRP to stay the execution pending the relief.
53. Public Enterprises and the Finance Respondents would be denied recourse in the ordinary course. I am advised that the opposed hearing date waiting period is between one and two terms. This means that if all papers were to be filed timeously, the earliest they could be heard is the third term of 2024. By that point, given Mango and the BRP's correspondence, the transaction could be concluded. This application is accordingly justifiably urgent.
54. On the other hand, there is no urgency to the sale. On 31 January 2023, an investor committed to wait saying that it *"is willing to afford [Mango] time to pursue its urgent application and at this stage is willing to continue the negotiations until such time as a final order is granted"*. The letter is attached as "NT7".
55. I pause here to note that an order can only be final, where an application for leave to appeal has been lodged, after the application for leave to appeal has been considered and no other application for leave to appeal is pending.
56. In the course of the application for leave to appeal before the High Court, an investor stated in a letter dated 12 October 2023 that they *"wish to confirm that we remain committed to concluding the transaction with Mango"*. They set no deadline on that commitment. That letter is attached as "NT8".

D. INTERIM INTERDICT

57. The Finance Respondents align themselves with the Public Enterprises' submission on the requirements of an interdict.

58. It is further submitted that the refusal of an interdict would set a dangerous precedent where state assets are at risk:

58.1. Contrary to the express provisions of the PFMA, it would allow a party that is not the party seeking to dispose of the asset the right to assume approval where there is not approval and it has not right to assume approval;

58.2. It would allow a party against whom an application for leave to appeal has been lodged in the SCA to obviate not just the jurisdiction of the court but the merits of the appeal by simply executing the judgment in circumstances where a condonation application has been lodged;

58.3. It would allow parties to deviate from the provisions of guarantee conditions with no fear of reproach.

E. CONCLUSION

59. In conclusion, save for an order of costs against them, the Finance Respondents support the relief sought by the Applicants.



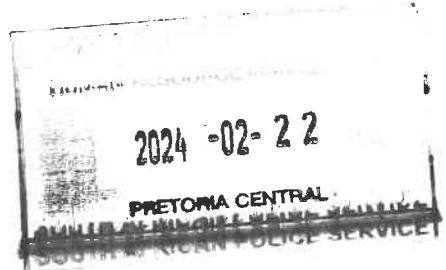
DEPONENT

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at Pretoria on this the 22 day of February 2024, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended by R1648 of 19 August 1977, and as further amended by R1428 of 11 July 1989, having been complied with.


PS Elias
7240240-7
C ST

COMMISSIONER OF OATHS

Pavo Samuel Elias
Constable
7240240-7
Pretoria Central SAPS







"NT1"

MINISTER: FINANCE
REPUBLIC OF SOUTH AFRICA

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PO Box 29, Cape Town, 8000, Tel: +27 21 464 8100, Fax: +27 21 461 2934

Ref. M4/1/1 (3376/13)

Mr MKN Gigaba, MP
Minister of Public Enterprises
Private Bag X15
HATFIELD
0028

Dear colleague *Malusi,*

REQUEST FOR A R5 BILLION GUARANTEE FOR SOUTH AFRICAN AIRWAYS (SAA)

I refer to your letters dated 19 July 2013, requesting that a consumer protection guarantee of R466 million be provided, and 26 September 2013, regarding the extension of the R5.006 billion guarantee for SAA.

In the correspondence dated 26 September 2013, it was requested that the R5.006 billion guarantee be extended for a further two (2) years. This would ensure that SAA's 2012/13 Annual Financial Statements ("AFS") could be signed off as a going concern. In addition, should the R4.5 billion recapitalisation that is assumed as part of SAA's Long Term Turnaround Strategy ("LTTS") not be forthcoming, there would not be a need to repeat the request for an extension of the guarantee therefore providing greater certainty to SAA's financiers of continued shareholder support.

Subsequent to receiving your letter, numerous engagements have taken place between ourselves as well as between our departments, SAA and their external auditors, PricewaterhouseCoopers and Nkonki Inc. Through these meetings, it was resolved that the guarantee must ensure that SAA is both solvent as well as having sufficient liquidity over the going concern period up until 31 March 2015.

In order to achieve this objective up to 31 March 2015, it was concluded that it is necessary for SAA to have in place perpetual guarantees amounting to at least R7.353 billion. This amount was premised on a number of underlying assumptions that were agreed between the National Treasury, Department of Public Enterprises, SAA and their external auditors.

SAA currently has the 2007 R1.3 billion perpetual guarantee already in place against which it has issued preference shares. These are reflected as equity in SAA's AFS in accordance with International Financial Reporting Standards ("IFRS"). In addition, SAA has the 2009 R1.6 billion perpetual guarantee in place, a portion of which has been used to secure the Air Traffic Liability ("ATL"). Taking these existing guarantees

PS

into account, the guarantee amount to address SAA's solvency up until 31 March 2015 reduces to R4.453 billion.

Consequently, I concur to the R5.006 billion being converted into a perpetual guarantee. This will increase SAA's total perpetual guarantees to R7.9 billion, exceeding the R7.353 requirement. The external auditors have indicated that they would be willing to sign off on the AFS as a going concern on this basis.

In your letter dated 19 July 2013, it was requested that the total consumer protection guarantee of R466 million to be provided for against the 2009 R1.6 billion perpetual guarantee. The amounts for the Domestic Air Services Licensing Council ("ASLC") and the International Air Services Council ("IASC") are R98 million and R368 million respectively. I concur to SAA issuing the R466 million guarantee for the ATL for the period 01 December 2013 to 30 September 2014 against the existing R1.6 billion guarantee. This R466 million amount can be accommodated within the headroom of the total guarantee facility that has been provided.

The following conditions are to be attached to the guarantees:

- a. SAA to submit monthly reports to the National Treasury and the Department of Public Enterprises on the implementation of the LTTS. These reports will be considered at the monthly meeting of the Monitoring Task Team that has been established.
- b. The Minister of Finance and the Minister of Public Enterprises to jointly approve SAA's shareholder compact.
- c. The shareholder compact to be translated into the performance agreements for the Executive Management team and be the basis for determining remuneration. Punitive measures to be implemented in the event that SAA fails by a material margin to deliver on the profitability targets set in the LTTS (with these terms to be agreed and defined in the Shareholder compact).
- d. In the event that SAA substantially fails to deliver against the LTTS, Government has the right to appoint representatives to take over management of the company (with the term "substantial failure" to be agreed and defined in the Shareholder compact).
- e. The amount of the perpetual guarantee to be reduced by the amount of any capital injection made by the Shareholder.

Furthermore, I request that the DPE share the McKinsey report in relation to the LTTS with the National Treasury.

I trust that you will find the above to be in order.

Kind regards



PRAVIN J GORDHAN
MINISTER OF FINANCE

Date: 29-11-2013

PS



COURT ONLINE COVER PAGE "NT2"

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Division, Pretoria

CASE NO: 2023-010700

In the matter between:

**MANGO AIRLINES SOC LIMITED (IN
BUSINESS RESCUE),SIPHO ERIC SONO
N.O.**

Plaintiff / Applicant / Appellant

and

**THE MINISTER OF PUBLIC
ENTERPRISES,THE DEPARTMENT OF
PUBLIC ENTERPRISES,SOUTH
AFRICAN AIRWAYS SOC LTD,THE
MINISTER OF FINANCE,NATIONAL
TREASURY,THE INTERNATIONAL AIR
SERVICES COUNCIL,THE AIR SERVICE
LICENSING COUNCIL,THE AFFECTED
PERSONS OF MANGO AIRLINES SOC
LIMITED**

Defendant / Respondent

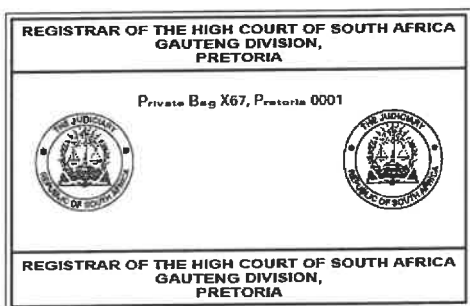
Notice of Motion (Long Form)

NOTE:

This document was filed electronically on 8/2/2023 at 10:44:50 AM South African Standard Time. The time and date the document was filed by the party is indicated on the header of each page of this document.



Registrar on 8/2/2023 at 10:44:50 AM South African Standard Time (ST). The time and date the document was filed by the party is indicated on the header of each page of this document.



ELECTRONICALLY SIGNED BY:

Registrar of High Court of South Africa , Gauteng Division,Pretoria



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: _____/2023

In the matter between:

**MANGO AIRLINES SOC LIMITED
(IN BUSINESS RESCUE)**

First Applicant

SIPHO ERIC SONO N.O.

Second Applicant

and

THE MINISTER OF PUBLIC ENTERPRISES

First Respondent

THE DEPARTMENT OF PUBLIC ENTERPRISES

Second Respondent

SOUTH AFRICAN AIRWAYS SOC LTD

Third Respondent

THE MINISTER OF FINANCE

Fourth Respondent

NATIONAL TREASURY

Fifth Respondent

THE INTERNATIONAL AIR SERVICES COUNCIL

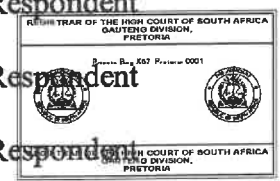
Sixth Respondent

THE AIR SERVICE LICENSING COUNCIL

Seventh Respondent

**THE AFFECTED PERSONS OF MANGO AIRLINES
SOC LIMITED
(IN BUSINESS RESCUE)**

Eighth and Further Respondents



NOTICE OF MOTION

TAKE NOTICE THAT the applicants intend to make application to this Court on **28 February 2023 at 10h00** or as soon thereafter as counsel may be heard for orders in the following terms:

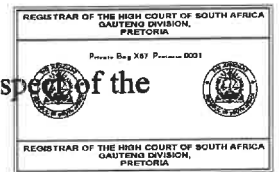
- 1 The forms and service provided for in the Rules of Court are dispensed with and the matter is heard as an urgent application in terms of Rule 6(12) of the Rules of this Court.

2 Declaring that the applicants and the third respondent submitted a valid and complete application to the first respondent in terms of section 54(2) of the Public Finance Management Act, 1 of 1999 (*PFMA*) (*the section 54 application*).

3 Declaring that the applicants may assume that the section 54 application has been approved by operation of section 54(3) of the PFMA.

4 In the alternative:

4.1 Declaring that the first respondent's refusal to make a decision in respect of the section 54 application is unlawful and constitutionally invalid.



4.2 Declaring that the first respondent is not entitled to request the applicants to furnish any further information in support of the section 54 application.

4.3 Directing the first respondent forthwith or within such period as the Court may direct after service of the Court order, to make a decision in respect of the section 54 application and communicate the outcome thereof to the applicants and the third respondent, including furnishing such reasons as the first respondent is required to furnish in law, failing which the applicants and the third respondent may assume that the section 54 application has been approved by operation of section 54(3) of the PFMA.

5 The first respondent and any litigant that opposes this application are directed to pay the costs of this application.

6 The applicants be granted such further and/or alternative remedy as the Court considers just, equitable or appropriate.

TAKE NOTICE FURTHER that the affidavits of **SIPHO ERIC SONO** and **JOACHIM VERMOOTEN** together with the annexures thereto, will be used in support of the application.

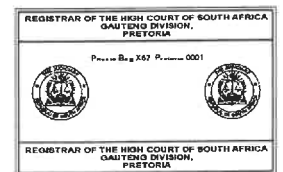
TAKE NOTICE FURTHER that the applicants have appointed **CLIFFE DEKKER HOFMEYR INC c/o MACROBERT ATTORNEYS** as the address at which they will accept notice and service of all process in these proceedings as set out below.

TAKE NOTICE FURTHER that the applicants hereby furnish the following information as required by Rule 6(5)(b):

Postal address: Private Bag X40, Benmore, 2010

Facsimile address: (011) 562 1865 / 1429

Electronic mail address: **kgosi.nkaiseng@cdhlegal.com** / **jackwell.feris@cdhlegal.com** / **imraan.abdullah@cdhlegal.com**



TAKE NOTICE FURTHER that should you intend opposing the relief sought you are required to:

- 1 Notify the applicants' attorneys in writing **by 13 February 2023** that you intend to oppose this application and to appoint an address referred to in Rule 6(5)(d) at which you will accept notice and service of all process in such proceedings.
- 2 File your answering affidavits, if any, together with any relevant documents in answer to the allegations made by the applicants **by 12h00 on 20 February 2023**; in that event the applicants will be required to deliver their replying affidavit **by 23 February 2023**.

KINDLY ENROL THIS APPLICATION FOR HEARING ACCORDINGLY.

A handwritten signature in black ink, appearing to be a stylized 'J' or similar character, enclosed in a circle.

DATED at JOHANNESBURG on this the 7th day of FEBRUARY 2023.

CLIFFE DEKKER HOFMEYR INC.

Applicants' Attorneys

1 Protea Place

Sandown

Sandton

Tel: (011) 562-1000

Ref: Kgosi Nkaiseng / 02047898

Email: kgosi.nkaiseng@cdhlegal.com

jackwell.feris@cdhlegal.com

imraan.abdullah@cdhlegal.com

C/O

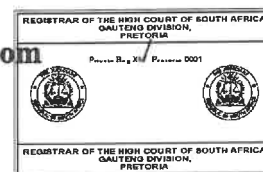
MACROBERT ATTORNEYS

1020 Jan Shoba Street

Brooklyn, Pretoria

Tel: (012) 425 3400

Ref: G Dreyer



TO:

**THE REGISTRAR OF THE HIGH COURT,
PRETORIA**

AND TO:

THE MINISTER OF PUBLIC ENTERPRISES

First Respondent

80 Hamilton Street

Arcadia

Pretoria, 0007

c/o the State Attorney

Old Mutual Centre

8th Floor

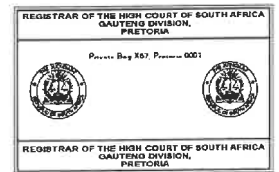
167 Andries Street
Pretoria, 0001
Email: Ministry.Registry@dpe.gov.za

SERVICE PER EMAIL AND SHERIFF

AND TO:

THE DEPARTMENT OF PUBLIC ENTERPRISES

Second Respondent
80 Hamilton Street
Arcadia
Pretoria, 0007
c/o the State Attorney
Old Mutual Centre
8th Floor
167 Andries Street
Pretoria, 0001
Email: DGOffice@dpe.gov.za



SERVICE PER EMAIL AND SHERIFF

AND TO:

SOUTH AFRICAN AIRWAYS SOC LIMITED

Third Respondent
Airways Park
32 Jones Road
OR Tambo International Airport
Kempton Park
Gauteng
Email: Chairperson@flysaa.com
MJLamola@Flysaa.com / FikileMhlontlo@Flysaa.com

SERVICE PER EMAIL AND SHERIFF



AND TO:

THE MINISTER OF FINANCE

Fourth Respondent

40 Church Street

Old Reserve Bank Building

2nd Floor, Pretoria

c/o the State Attorney

Old Mutual Centre

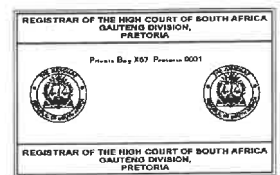
8th Floor

167 Andries Street

Pretoria

0001

Email: MINREG@Treasury.gov.za



SERVICE PER EMAIL AND SHERIFF

AND TO:

NATIONAL TREASURY

Fifth Respondent

40 Church Street

Old Reserve Bank Building

2nd Floor, Pretoria

c/o the State Attorney

Old Mutual Centre

8th Floor

167 Andries Street

Pretoria

0001

Email: MINREG@Treasury.gov.za

SERVICE PER EMAIL AND SHERIFF

A handwritten signature in black ink, appearing to be the letter 'B' with a flourish.

AND TO:

THE INTERNATIONAL AIR SERVICES COUNCIL

Sixth Respondent

Forum Building

Corner Struben and Bosman Streets

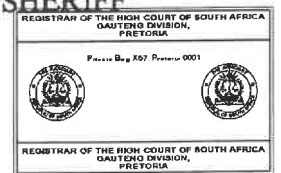
Pretoria

Email: **InternationalCouncil@dot.gov.za**

NembudaP@dot.gov.za / MotauM@dot.gov.za

MantsinP@dot.gov.za / ButheleziL@dot.gov.za

SERVICE PER EMAIL AND SHERIFF



AND TO:

THE AIR SERVICE LICENSING COUNCIL

Seventh Respondent

Forum Building

Corner Struben and Bosman Streets

Pretoria

Email: **DomesticCouncil@dot.gov.za**

MantsinP@dot.gov.za

SERVICE PER EMAIL AND SHERIFF

AND TO:

**THE AFFECTED PERSONS OF MANGO AIRLINES
SOC LIMITED
(IN BUSINESS RESCUE)**

Eighth and Further Respondents


(A list of all the affected persons is annexed to the Notice of Motion marked as **NOM1**)

SERVICE PER EMAIL

"NOM1"

Creditor	Company Name	Physical Address	Phone Number
Advance Office Supplies	advtrams@advtrams.co.za advtrams@advtrams.co.za advtrams@advtrams.co.za		
Aerpen Aircraft Five Limited	chrisass@airco.za; Lwazi Gumede LwaziG@airco.za; Malome Mokohele <malome@airco.za>; Thandeka Mabhula <thandekam@airco.za>; Elize Mphahla <emphahla@airco.za>; Alet Crouse <AletC@airco.za>; Andrew Mkhwanetsi <amkhwanetsi@airco.za>; Sibusiso Mamanwa <SibusisoM@airco.za>; Veronica Mkhwanse veronikam@airco.za;	S Blvd Rd, Bruma, Johannesburg, 2026	0116971000
Airchefs	enesankuma@airchefs.co.za		
Airfre Tariff Publishing Company	dacc@aircorp.net Senzeni Ndebele@airports.co.za; samukela khambule@airports.co.za; Gopobang, Perne@airports.co.za; Cohn, Naidoo@airports.co.za; moyses.thomson@airports.co.za; airfremarketing@amadeus.com; paula.deasousa@amadeus.com; neville.kelly@amadeus.com; manuel.rodriguez@amadeus.com; amanziz@h2o.co.za; walter@h2o.co.za		
Airports Company	airports@airco.za		
Anadeus IT Group SA	amanziz@h2o.co.za; walter@h2o.co.za		
Ananziz	amanziz@h2o.co.za; walter@h2o.co.za		
ARINC (EMEA)	arinc@arinc.com		
Auditor General Of South Africa	agisa@agsa.co.za	39 Scott St, Bramley, Johannesburg, 2090	011 703 7600
Aviation Co-ordination Services	Siphesihle@ecs.za.com; Anil Ramchod <Anil@ecs.za.com>; hmaraks@cooyeast.co.za; RRoman@cooyeast.co.za; dake@ecs.za.com; rccremm@cooyeast.co.za	Building 16, Waterfall Park, Bekker Rd & Treur Ct, Midrand, 1682	0115451000
Aviation Safety and Quality Solutions	gsahndi@asqs.net; gschindl@asqs.net;	33 Rue de Gasperich, 5828 Hesperange, Luxembourg	+43 1 3061234
Bag Guys	marhdun@thebagguys.co.za; chris@thebagguys.co.za;		
Batemans Vastafing Associates	mcarnetto@bvassociates.co.za; mmunes@bvassociates.co.za	65 PHILIP ENGELBRECHT AVE, MEYERSDAL OFFICE PARK, BUILDING No.5, Meyersdal, Alberton, 1448	0118674707
Bidair Services	prechouss@bidair.co.za; Faridhak@bidservices.co.za; laurenm@bidservices.co.za;	3rd floor, lower roof office D44 & D42 OR Tambo International Airport	0113839420
Blue Print Group	treary@blueprints.co.za; treecery@blueprints.co.za		
Bowman Gillian Incorporated	perusha.philly@bowmanslaw.com		
Brand Contact Consultants	info@brandcontact.net		
Bytes Document Solutions	Shannon.Groenewald@alton.com; Elaine.Cusdin@alton.com; Dermot.Collins@alton.com; Lizaan.Lewis@alton.com; Dendor.Mckenzie@alton.com; dudu.lakubug@alton.com		
Bytes Systems Integration (Division of Alton TMT)	Tsakani.Nkomo@alton.com	Office Park, 20 Woodlands Dr Woodlands, Woodmead, 2191	0112057000
Celestial Aviation Trading 41 Ltd C/O GE Capital Avial	john.mcgrath@gecs.com; Yvan Barrat@ge.com; john.mcgrath@gecs.com;		
Comair Limited	judy.poothen@comair.co.za; michela.dacosta@comair.co.za;	2-4 Fortress Street, Rhodessfield, Kamitlon Park 1st Floor, Block 4, Thornhill Office Park, 64 Bekker Rd, Vorna Valley, Midrand, 1686	0119219111
Contel Analytics	gbogilages@contel.co.za		086 126 7835 / 011 8042396
Craft Loyalty	esther@craftloyalty.co.za		
DCB Loyalties	sun.co@dcb.co.za		
Edwin S Nkwana Inc	edwin@esnlc.co.za		
Engline Lease Finance Corporation	info@elfc.com		
EPIC MSL GROUP	esacollection@epicgroup.co.za		
Escalate Your Brand (Pty) Ltd	levon@modtonmsa.co.za		
Essential Cleaning Services	ayvessa@essential.co.za		
ezzy Webweskaden	David.Smeets@ezzy.com; tradik.khuyi@ezzy.com;	Arsstigen 5a, 311 38 Falkenberg, Sweden	+46 340 64 14 20
Fidelity Services	krone@fidelity-services.com		
Flightdeck Software Support	voland@flightdeck.com		
Flow Communications	mary@flowsa.com; saajidai@flowsa.com; gal@flowsa.com	7 Winslow Ave, Parkwood, Johannesburg, 2193	0870958182
Galley Tours and Safaris	accounts@galleytours.net		
Google	collections@google.com; googlerequest@intlrum.com; bankruptcy-globel@google.com;		
Handi International Services FZE	ops@handi.aero; ops100@handi.aero;		
Hygiene Total Hygiene Solutions Pty Ltd	adrlm@hygiene.co.za		

LATA Training and Development Institute	lata@lata.org.za lata@lata.org.za		
Ignite	ignite@ignite.co.za ignite@ignite.co.za		
hovo Telecom	hovo@hovo.co.za hovo@hovo.co.za		
Internet Solutions	info@internet-solutions.co.za info@internet-solutions.co.za		
Iron Mountain	ironmountain@ironmountain.co.za ironmountain@ironmountain.co.za		
Israel Aerospace Industries	isaia@isaia.co.il isaia@isaia.co.il		
Japensean GMBH	bruce@japensean.co.za bruce@japensean.co.za		
Kalanga Executive Parking	sharon.collison@executiveparking.co.za sharon.collison@executiveparking.co.za		
Lanseria International Airport	pr@lanseria.co.za pr@lanseria.co.za		
Lufthansa Technik AG	wolfgang.rehert@lht.de wolfgang.rehert@lht.de		
Macquarie Aircraft Leasing Services (Ireland) Limited	W.Purcell@macquarie.aero Stephen.McCullen@macquarie.aero Gregg.Walker@macquarie.aero Ryan.Smith<Ryan.Smith@webberwentzel.com> <Scott.Edmundson@webberwentzel.com>		
Menzies Aviation (South Africa)	Kim.Abernethy@menziesaviation.com Gonnie.Labroek@menziesaviation.com		
Momentum Metropolitan	za.EBU@collocations.com kezellubbe@liquid.tech Sinhalee.Shangeer@liquid.tech		
Neotel	thuyva.messina@peyu.com thuyva.messina@peyu.com		
PAVU Payments Solutions	sv.stem@emc.co.za sv.stem@emc.co.za		
Premier Cleaning Services	Nico@premiercleaning.co.za Nico@premiercleaning.co.za		
Protea Hotel - OR Tambo International	Ruan.DuPlessis@protea.co.za Ruan.DuPlessis@protea.co.za		
Puma COGT Aviation Services	Aviation.CSG@pumaair.com andrew@maxamair.com		
Resource and Revenue Management	salmark@rvm.com LuyoloMkhwanazi@rvm.com Welfri@rvm.com		
SAA Technical	rodh@rvm.com rodh@rvm.com		
SATC ERIM Travel Cape Town	hazel@satc.co.za hazel@satc.co.za		
Selcom	steven.crichton@selcom.net steven.crichton@selcom.net		
Skycanner Limited	soan@skycanner.com soan@skycanner.com		
Soaring Falcon Spur	champion@soaringfalcon.co.za champion@soaringfalcon.co.za		
South African Airways	nick@saairways.com nick@saairways.com		
South African Civil Aviation Authority	Acut Seedat <Seedat@caa.co.za> Babaiva Ndandan <Ndandan@caa.co.za> Van Vuuren <VanVuuren@caa.co.za>		
SARS	SARSDebtManagement@sars.gov.za SARSDebtManagement@sars.gov.za		
South African Weather Service	partnersupport@weather.co.za partnersupport@weather.co.za		
Spoor and Fisher Attorneys	info@spoorfisher.com info@spoorfisher.com		
Spurr Ireland Leasing	john.mccraith@spurr.co.uk john.mccraith@spurr.co.uk		
Storage Property REIT	bookshurg@slr-re.co.za bookshurg@slr-re.co.za		
Store-rite Self Storage	accounts@store-rite.co.za accounts@store-rite.co.za		
Strive Marketing Services (Pty) Ltd	accounts@strive.co.za accounts@strive.co.za		

		
Tekom	Phyllis@tek.com.co.za; ManUSA@tek.com.co.za; Smith113@tek.com.co.za	
The Boeing Group	Karenth_Gendres@boeing.com	
The Vuvuzela Helpline (Pty) Ltd	kepsa.aim@p-helpline.co.za	No 113 Wich-hazel ave, Highveld, Techno Park, Centurion
Travelport International LTD	yigson.ditsho@travelport.com; collectors@travelport.com;	0126928800
Travelstart Online Travel Operations	carolcde@travelstart.com; naznie@travelstart.com	
Vodacom	Carol-Anne.Eckstein@vodacom.co.za; Leticia.Methabula@vodacom.co.za;	
Web Travel Brands	tracy@andip.com	
Wimpy KSJA	wimpyksja@nwweb.co.za;	
Redefine Priorities	kganyam@redefine.co.za; Lefaqik@redefine.co.za; Sindhvan@redefine.co.za;	
Centrop Call Centre JHB	LeysID@redefine.co.za; ZukiswaV@redefine.co.za;	
CPC	Woodrow Wilson@CPC.co.za	
Employee Representatives	businessrescue@CPC.co.za shvslaw@gmail.com; FezekaiVzila@nymanqa.com; josscupid@gmail.com; albrand@iafrica.com; vivwe@numsa.org.za; Phakamleh@numsa.org.za ; phibibi@gmail.com; labour@secca.org; zazinsibanyoni@yahoo.com; dereke@solidentel.co.za; angeleque.carlinsky@gmail.com; shvslaw@gmail.com; sheekhali.hurni@sheekhali.hurni@gmail.com	



IN THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

"NT3"

SCA Case No.: _____

Case No. *a quo*: 010700/2023

In the matter between:

MINISTER OF FINANCE

First Applicant

NATIONAL TREASURY

Second Applicant

and

**MANGO AIRLINES SOC LIMITED (IN
BUSINESS RESCUE)**

First Respondent

SIPHO ERIC SONO N.O.

Second Respondent

**NATIONAL UNION OF METALWORKERS OF
SOUTH AFRICA**

Third Respondent

MINISTER OF PUBLIC ENTERPRISES

Fourth Respondent

DEPARTMENT OF PUBLIC ENTERPRISES

Fifth Respondent

SOUTH AFRICAN AIRWAYS SOC LTD

Sixth Respondent

INTERNATIONAL AIR SERVICES COUNCIL

Seventh Respondent

AIR SERVICES LICENSING COUNCIL

Eighth Respondent

**AFFECTED PERSONS OF MANGO
AIRLINES SOC LTD (IN BUSINESS
RESCUE)**

Ninth Respondent

I the undersigned

Ronny Baloyi



do hereby make oath and say that:

1 I am a Team Assistance in the Legal Service of the National Treasury.

2 The facts deposed to in this affidavit are true and, save where the contrary appears from the context or is otherwise stated, are within my personal knowledge.

3 On 12 January 2024 I attended at the offices of the seventh and eighth Respondents situated at 159 Struben Street, Forum Building , Pretoria for purposes of serving the papers. The seventh and eighth Respondents share the building with the Department of Transport.

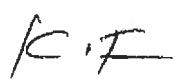
4 I was advised by the receptionist who refused to give her name that the officials for both the seventh and eighth Respondents were out of the office and that she was not authorised to accept service on their behalf.

5 On 15 January 2024 I again attended at the offices of the seventh and eighth responded and was advised that the officials for the seventh and eighth responded were attending a meeting outside the office .

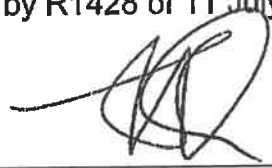
6 The office of the State Attorney emailed the papers to the seventh and eighth responded and requested that they acknowledge receipt. The email is attached as "RB1".



DEPONENT



I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at PRETORIA on this the 15th day of JANUARY 2024, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended by R1648 of 19 August 1977, and as further amended by R1428 of 11 July 1989, having been complied with.



DIRECTOR OF PUBLIC PROSECUTIONS
PRIVATE BAG X300
2024-01-15
DOCKET PRETORIA 0001
NORTH GAUTENG: PRETORIA

COMMISSIONER OF OATHS
KHEIANI MACHEVELE
ALLOCATION OFFICER
28 CHURCH SQUARE
PRETORIA, 0001



BB

RB1

Thandeka Ncala

From: Phetolo Mokoena
Sent: Monday, 15 January 2024 13:58
To: Thandeka Ncala; Thabang Mashabela
Subject: FW: MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS- APPLICATION FOR LEAVE TO APPEAL TO THE SCA
Attachments: Read: MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS- APPLICATION FOR LEAVE TO APPEAL TO THE SCA

Kind Regards

Phetolo Mokoena

For: The State Attorney (Pretoria)

Tel: 012 309 1575

Cell: 073 772 8453

Email: PheMokoena@justice.gov.za / Phetolo.Mokoena@treasury.gov.za

-----Original Message-----

From: Phumudzo Nembudani <NembudaP@dot.gov.za>

Sent: Monday, January 15, 2024 10:34 AM

To: Phetolo Mokoena <Phetolo.Mokoena@treasury.gov.za>

Subject: Read: MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS- APPLICATION FOR LEAVE TO APPEAL TO THE SCA

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KIT
RB

Thabang Mashabela

"NT4"

From: Phetolo Mokoena
Sent: Monday, January 15, 2024 1:58 PM
To: Thandeka Ncala; Thabang Mashabela
Subject: FW: MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS- APPLICATION FOR LEAVE TO APPEAL TO THE SCA
Attachments: Read: MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS- APPLICATION FOR LEAVE TO APPEAL TO THE SCA

Kind Regards
Phetolo Mokoena
For: The State Attorney (Pretoria)
Tel: 012 309 1575
Cell: 073 772 8453
Email: PheMokoena@justice.gov.za / Phetolo.Mokoena@treasury.gov.za

-----Original Message-----

From: Phumudzo Nembudani <NembudaP@dot.gov.za>
Sent: Monday, January 15, 2024 10:34 AM
To: Phetolo Mokoena <Phetolo.Mokoena@treasury.gov.za>
Subject: Read: MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS- APPLICATION FOR LEAVE TO APPEAL TO THE SCA

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National Treasury Email

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Thabang Mashabela

From: Phumudzo Nembudani <NembudaP@dot.gov.za>
To: Phetolo Mokoena
Sent: Monday, January 15, 2024 10:34 AM
Subject: Read: MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS- APPLICATION FOR LEAVE TO APPEAL TO THE SCA

Your message

To: Phumudzo Nembudani
Subject: MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS- APPLICATION FOR LEAVE TO APPEAL TO THE SCA
Sent: Monday, January 15, 2024 10:29:12 AM (UTC+02:00) Harare, Pretoria
was read on Monday, January 15, 2024 10:34:27 AM (UTC+02:00) Harare, Pretoria.



Thabang Mashabela

"NT5"

From: Steven Muleya
Sent: Wednesday, February 21, 2024 4:51 PM
To: Thabang Mashabela
Subject: FW: PETITION TO THE SCA- MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS

From: Phetolo Mokoena <Phetolo.Mokoena@treasury.gov.za>
Sent: Wednesday, 24 January 2024 09:02
To: Cronje Cornelise <CoCronje@justice.gov.za>
Cc: Mokoena Phetolo <PheMokoena@justice.gov.za>; Matubatuba Maxwell <MMatubatuba@justice.gov.za>
Subject: RE: PETITION TO THE SCA- MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS

Good day,

Kindly advise if the application and the supporting affidavit have been successfully filed with the court.

Kind Regards

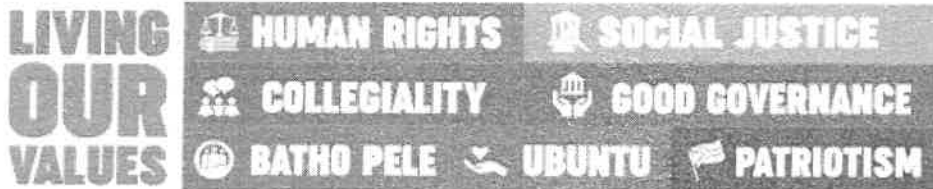
Phetolo Mokoena

For: The State Attorney (Pretoria)

Tel: 012 309 1575

Cell: 073 772 8453

Email: PheMokoena@justice.gov.za / Phetolo.Mokoena@treasury.gov.za



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National Treasury EMail Disclaimer

Steven Muleya

"NT6"

From: Phetolo Mokoena
Sent: Tuesday, 06 February 2024 18:24
To: Steven Muleya; Thandeka Ncala; Yolanda Saaiman; Dineo Matsheka; Thabang Mashabela
Cc: Mokoena Phetolo; Cronje Cornelise
Subject: FW: PETITION TO THE SCA- MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS
Attachments: mango filed.pdf

From: Cronje Cornelise <CoCronje@justice.gov.za>
Sent: Tuesday, February 6, 2024 6:04 PM
To: Phetolo Mokoena <Phetolo.Mokoena@treasury.gov.za>
Cc: Mokoena Phetolo <PheMokoena@justice.gov.za>; Matubatuba Maxwell <MMatubatuba@justice.gov.za>
Subject: RE: PETITION TO THE SCA- MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS

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Good day

Our ref: 239/2024 MANGO P1M

Your ref: 0428/2023/Z32
Maxwell Matubatuba

Attached please find proof that the Petition for Leave to Appeal with condonation was filed @ the SCA.

Regards

Nelisé Cronjé
Assistant State Attorney
for State Attorney – Bloemfontein
CoCronje@justice.gov.za // 051 400 4312 // 082 412 4412 // Fax2mail 0864 397 315

Mr Kamogelo Motlakoe
Legal Secretary – SCA Appeals & Conveyancing
KMotlakoe@justice.gov.za // 051 400 4342

From: Phetolo Mokoena <Phetolo.Mokoena@treasury.gov.za>
Sent: Wednesday, 24 January 2024 09:02
To: Cronje Cornelise <CoCronje@justice.gov.za>
Cc: Mokoena Phetolo <PheMokoena@justice.gov.za>; Matubatuba Maxwell <MMatubatuba@justice.gov.za>
Subject: RE: PETITION TO THE SCA- MINISTER OF FINANCE AND ANOTHER // MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE) AND OTHERS

Good day,

Kindly advise if the application and the supporting affidavit have been successfully filed with the court.

Kind Regards
Phetolo Mokoena
For: The State Attorney (Pretoria)
Tel: 012 309 1575



Cell: 073 772 8453

Email: PheMokoena@justice.gov.za / Phetolo.Mokoena@treasury.gov.za



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National Treasury EMail Disclaimer

A handwritten signature or mark, possibly the letter 'B' inside a circle, located in the bottom right corner of the page.



the doj & cd

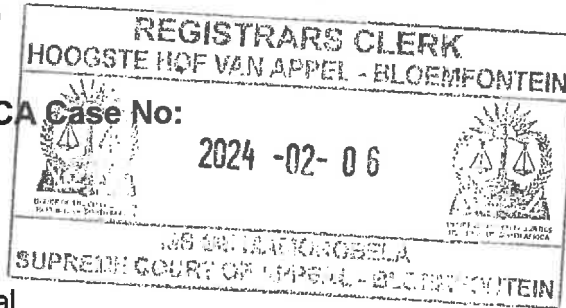
Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE STATE ATTORNEY - BLOEMFONTEIN

Private Bag X20630 BLOEMFONTEIN 9300 • 11th Floor Fedsure Building, 49 Charlotte Maxeke Street, BLOEMFONTEIN 9301
DOCEX 100 BLOEMFONTEIN • Tel (051) 4004 300, • Fax2Email 0864 397 315 • Fax (051) 447 3146

My Ref : 239/2024 MANGO P1M (Always quote my reference number)
Enq : CC Cronjé - (0824124412)
Tel : (051) 4004312 (Direct Line)
E-mail : CoCronje@justice.gov.za

Your Ref : Leave to Appeal – SCA Case No:



By Hand

5 February 2024

Registrar - Supreme Court of Appeal
BLOEMFONTEIN

RE: MINISTER OF FINANCE & MINISTER OF NATIONAL TREASURY // MANGO AIRLINES SOC & 8 OTHERS

We refer to the above matter and attach hereto the following:

- 3rd & 4th Applicants' Petition for Leave to Appeal with court orders and judgments – original & 2 copies
- 3rd & 4th Applicants' Application for Condonation for late filing of Leave to Appeal – original & 2 copies
- 1st & 2nd Applicants' Affidavit in support of 3rd & 4th Applicants' Petition – original & 2 copies

Same was served on the opposing participating parties - 1st & 2nd Respondents by hand and 3rd Respondent by e-mail. Other parties do not participate in this appeal, i.e Respondents 4, 5, 6 and 7.

Please take note that the original Founding Affidavit of the 3rd & 4th Applicant was printed single-sided, attested, and signed under oath by the deponent. We apologise for the oversight and for not complying with the practice directives of the SCA.

Regards


State Attorney – Bloemfontein
Ms CC Cronje

THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

SCA CASE NO: _____

Case No, a quo 010700/2023

In the matter between:

THE MINISTER OF FINANCE

First Applicant

THE MINISTER OF NATIONAL TREASURY

Second Applicant

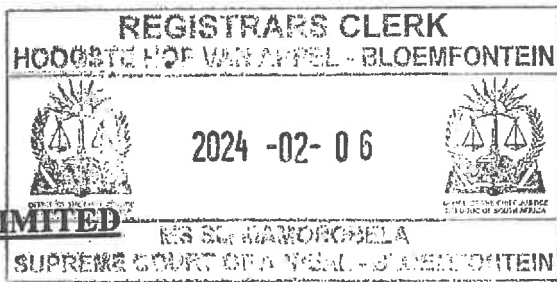
THE MINISTER OF PUBLIC ENTERPRICES

Third Applicant

THE DEPARTMENT OF PUBLIC ENTERPRISES

Fourth Applicant

and



MANGO AIRLINE SOC LIMITED (IN BUSINESS RESCUE)

First Respondent

SIPHO ERICSONO N.O

Second Respondent

NUMSA

Third Respondent

THE INTERNATIONAL AIR SERVICE COUNCIL

Fourth Respondent

THE AIR SERVICE LICENSING COUNCIL

Fifth Respondent

THE SOUTH AFRICAN AIRWAYS

Sixth Respondent

THE AFFECTED PERSONS OF MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE)

Seventh Respondent

**NOTICE OF MOTION: THIRD AND FOURTH APPELLENTS' APPLICATION
FOR
CONDONATION FOR THE LATE FILING OF THE PETITION**

51A

THE SUPREME COURT OF APPEAL OF
SOUTH AFRICA

SCA CASE NO: /2023

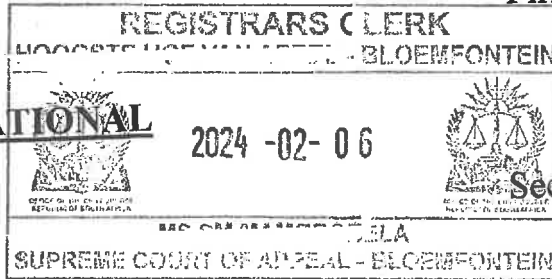
COURT A QUO CASE NO: 010700/2023

In the matter between:

THE MINISTER OF FINANCE

First Applicant

THE MINISTER OF NATIONAL
TREASURY



Second Applicant

MINISTER OF PUBLIC ENTERPRISES

Third Applicant

DEPARTMENT OF PUBLIC ENTERPRISES

Fourth Applicant

and

MANGO AIRLINE SOC LIMITED
(IN BUSINESS RESCUE)

First Respondent

SIPHO ERICSONO N.O

Second Respondent

NATIONAL UNION OF METALWORKERS
OF SOUTH AFRICA

Third Respondent

SOUTH AFRICAN AIRWAYS SOC LTD

Fourth Respondent

THE INTERNATIONAL AIR
SERVICE COUNCIL

Fifth Respondent

**THE AIR SERVICE LICENSING
COUNCIL**

Sixth Respondent

**THE AFFECTED PERSONS OF
MANGO AIRLINES SOC LIMITED
(IN BUSINESS RESCUE)**

Seventh Respondent

**MINISTER OF FINANCE & MINISTER OF NATIONAL TREASURY &
MINISTER OF PUBLIC ENTERPRISES AND THE DEPARTMENT OF
PUBLIC ENTERPRISES NOTICE OF APPLICATION FOR SPECIAL
LEAVE TO APPEAL**

TAKE NOTICE THAT, the National Treasury and the Minister of Finance hereby apply to this Court for an order in the following terms:

1. That the Minister of Public Enterprises and The Department of Public Enterprises be granted special leave to appeal to the Supreme Court of Appeal alternatively the Full Court of the High Court Gauteng Division, Pretoria against the whole judgement and order delivered by the Honourable Acting Justice Phoshoko on 06 September 2023 ("High Court Order").



IN THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

SCA Case No.: _____

Case No. *a quo*: 010700/2023

In the matter between:

MINISTER OF FINANCE

NATIONAL TREASURY

MINISTER OF PUBLIC ENTERPRISES

DEPARTMENT OF PUBLIC ENTERPRISES

and

MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE)

SIPHO ERIC SONO N.O.

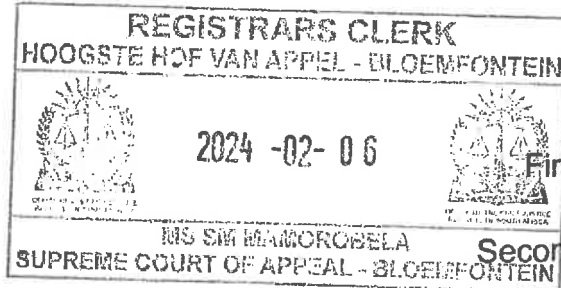
NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA

SOUTH AFRICAN AIRWAYS SOC LTD

INTERNATIONAL AIR SERVICES COUNCIL

AIR SERVICES LICENSING COUNCIL

AFFECTED PERSONS OF MANGO AIRLINES SOC LTD (IN BUSINESS RESCUE)



First Applicant

Second Applicant

Third Applicant

Fourth Applicant

First Respondent

Second Respondent

Third Respondent

Fourth Respondent

Fifth Respondent

Sixth Respondent

Seventh Respondent



Documents presented for filing:

1. First and Second Applicants' supporting affidavit in the application for special leave to appeal.

DATED at **PRETORIA** on this the **18TH** day of **January 2024**.



1ST AND 2ND APPLICANTS'
ATTORNEY
APPLICANTS' ATTORNEYS
STATE ATTORNEY: PRETORIA
SALU BUILDING
255 FRANCIS BAARD STREET
PRETORIA

Ref: 0428/2023/Z32

Email: PheMokoena@justice.gov.za
PheMokoena@treasury.gov.za

Tel: (012) 309 1575

Cell : 073 772 8453

Enq: Ms P Mokoena



Durban: Ncondo Chambers, 45 Vuna Close,
Umhlanga Ridge, Durban | Dlx 50, Durban
P O Box 913, Umhlanga Rocks, 4320
Tel: 031 536 8500 | Fax: 086 573 5236
Sandton: 4 Sandown Valley Crescent,
Sandton, 2196 | Dlx 33 Sandton Square
Tel: 010 0155 800
Cape Town: Unit 16, Pepper Street Chambers,
Cape Town, 8000
Tel: 021 879 2516
Website: www.coxyeats.co.za

OUR REF: 012M0820000000

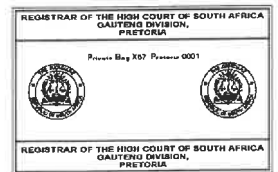
YOUR REF: Imraan Abdullah

31 January 2023

Mr Imraan Abdullah
Cliff Dekker Hofmeyer
By Email: Imraan.Abdullah@cdhlegal.com

Copy to:
Kgosi Nkaiseng
By Email: Kgosi.Nkaiseng@cdhlegal.com

Jackwell Ferris
By Email: jackwell.ferris@cdhlegal.com



Dear Imraan

PFMA SECTION 54(2) APPLICATION – DISPOSAL OF SOUTH AFRICAN AIRWAYS SOC LIMITED'S SHARES IN MANGO AIRLINES SOC LIMITED (IN BUSINESS RESCUE)

1. I refer to your letter of today's date.
2. I have taken instructions from my client and it understands your position.
3. My instructions are to confirm that my client is willing to afford your client time to pursue its urgent application and at this stage is willing to commit to continue the negotiations until such time as a final order is granted.
4. My client's rights however remain fully reserved and this letter should not be construed as any contractual undertaking on its behalf, irrevocable or otherwise.
5. I look forward to your further updates in respect of the urgent application.

Yours sincerely

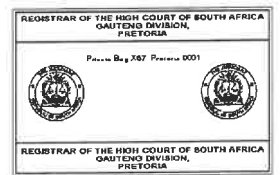
This is an electronic transmission and is therefore unsigned

Kim Edwards

Partners: Alastair Hay B.Com. LL.B. • Michael Jackson B.Com. LL.B. LL.M. (Cambridge) Dip. Environ. Law • Richard Hoal B.Soc.Sc. LL.B. Dip. Maritime Law • Andrew Clark B.Com. LL.B. • Helen Jackson B.A. LL.B. • Robln Westley B.Soc.Sc. LL.B. • Tina Halstead B.A. LL.B. • Lazelle Paola B.Com. LL.B. • Thys Scheepers B.Proc. LL.B. • Gary Pritchard B.A. LL.B. • Emil Souris B.A. LL.B. • Randhir Naicker B.A. LL.B. LL.M. • David Vloek LL.B. • Peter Barnard LL.B. • Jason Goodison B.Soc.Sc. LL.B. • Carol McDonald LL.B. BCL (Oxford) • Gareth Cremen LL.B. • Freddie Terblanche, LL.B. LL.M. • Jenna Padoa LL.B. LL.M. • Thabo Vilakazi LL.B. LL.M. • Tamryn Simpson LL.B. LL.M. • Sunil Hansjee LL.B. • Kim Edwards LL.B. • Wade Ogilvie LL.B. • Laura Kelly B.A. LL.B. • Petrina Naicker B.Com. LL.B. • Tasmiya Patel LL.B. LL.M. • Chantal Mitchell B.Soc.Sc. LL.B. • Benjamin Meadows B.Com. LL.B. • Bridget Letsholo LL.B. • Claudelle Pretorius LL.B. Associates: Akdeen Ross LL.B. LL.M. • Phillip Cronje B.A. LL.B. • Magreet Henning B.A. LL.B. • Megan Baker B.A. LL.B. • Rona Evans B.Com. LL.B. • Jenna Rodd B.Soc.Sc. LL.B. • Slindokuhle Ngwenya LL.B. • Mohamed Mota LL.B. LL.M. • Tammerton de Wit LL.B. • Njabiso Selepe B.Soc.Sc. LL.B. • Jennifer Smit B.A. LL.B. Consultants: Roger Green B.Com. LL.B. • Charles van Staden B.Com. LL.B. LL.M. • Callyn Wilkinson LL.B.

COX YEATS

Direct Tel: 0315368519
Mobile: 0724661111
Email: kedwards@oxyeats.co.za



[Handwritten signatures and initials]

MM3

FA6

"NT8" UBUNTU AIR SERVICES

Ubuntu Air Services (Pty) Ltd
Reg No: 2022/701594/07
Unit 3 Bushhill Office Park
Bastion Close, Cnr Ostrich Rd and
Hawken Ave, Bromhof, Randburg
2154
Tel: 011 592 9000

The Business Rescue Practitioner,

Mango Airlines

12 October 2023

We wish to confirm we remain committed to concluding the transaction with Mango, as per the original accepted offer.

Sincerely,

Josh Loots

Director

Marian Sandu

Director

Marian Sandu

Ubuntu Air Services (Pty) Ltd | Company Registration No: 2022/701594/07

Directors: Jozua Johannes Georg Loots; Marian Sandu

