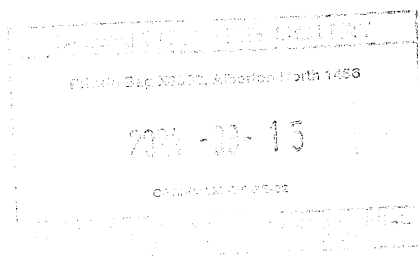
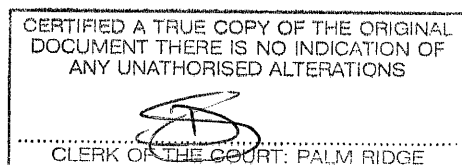


2. The defendant stands convicted in the above cited criminal matter in the above cited court under the above cited case number on Fraud charges: 1, 4 and 8 as per the chargesheet to be read with the judgment by the court in terms of which the defendant was convicted (**the conviction offences**).
3. The court subsequently instituted and has held an enquiry in terms of section 18 of the Prevention of Organised Crime Act 121 of 1998 (**the POCA**) into any benefit the defendant may have derived from the conviction offences (**the confiscation enquiry**).
4. There is an interested party as referred to in section 20 (5) of the POCA, namely Mrs Nomvisiswano Joyce Mtimkulu, Republic of South Africa identity no: 790528 0335 087 (**Mrs Mtimkulu**) being the divorced former spouse of the defendant. Mrs Mtimkulu has made written representations under oath to the court (**the representations**).
5. There is a restraint order in place in terms of section 26 of the POCA without the appointment of a curator and limited to immovable realisable property in which the defendant has an interest as specified therein, made and made final by the High Court, Gauteng Division, Johannesburg under case number 2023/08566, a copy of which orders is attached hereto as **Annexure A (the restraint order)**.
6. Realisable property of the defendant restrained in terms of the restraint order (**the restrained realisable property**) is as follows:
 - 6.1. The net proceeds that remain from the currently intended sale of the following property in execution and satisfaction of the orders made on 11 March 2022 by the High Court, Gauteng Division, Johannesburg including the satisfaction of all costs orders made in favour of the applicant in the matter of Assetline South Africa (Pty) Ltd – applicant (**Assetline**) and M Brothers XY Group (Pty) Ltd – first respondent

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J.

and Daniel Motshutshi Mtimkuku – second respondent, under case number 34171/2021, namely:

6.1.1. The immovable property Unit 48 SS Mont Blanc Heights, Scheme number 277/2007, Bedford Gardens, registered title deed ST8529/2020, as well as two exclusive use parking lots registered under SK595/2014S and SK495/2014S, with street address 127 Oxford Road, Bedford Gardens, Bedfordview, registered in the name of the defendant (**the Bedford Gardens property**), alternatively as specified by the restraint order,

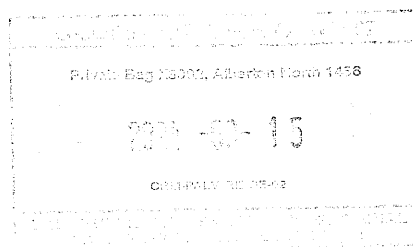
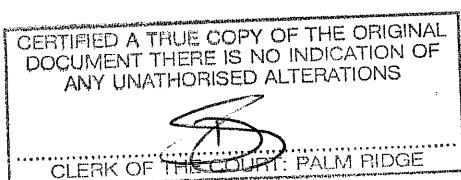
6.1.2. in the event that all debts giving rise to and associated with the intended sale in execution by Assetline of the Bedford Gardens property are settled or are to be settled in a manner that negates on a final basis the necessity to sell the property in execution, then upon an advice to the applicant by the attorneys of Assetline of such event occurring, the Bedford Gardens property also stands included as listed restrained property in terms of the restraint order.

6.2. The following further immovable property, which is registered in the name of the defendant and Mrs Mtimkulu, each being registered 50% owners:

6.2.1. The immovable property Erf 8059 Langebaan, Western Cape (Langebaan Country Estate), registered title deed T45717/2010, with street address: 629 De La Haye Drive, Langebaan Country Estate (**the Langebaan property**), and

6.2.2. The immovable property Unit 9 SS Claredon Square Scheme number 440/2007, Cape Town, registered sectional title deed ST19179/2007, with

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street address: 75 Claredon Street, Klipkop, Parow, Western Cape (**the Parow property**).

7. Ms Mtimkulu is no longer pursuing her main prayer in the representations and only continues to pursue her alternative prayer in the representations namely, that:

7.1. Her one-half share in and to the Langebaan property and Parow property be excluded as realisable property in the matter as the properties (taken to mean – shares) do not fall within the ambit of realisable property in terms of section 14 of the POCA (**the alternative prayer of Mrs Mtimkulu**).

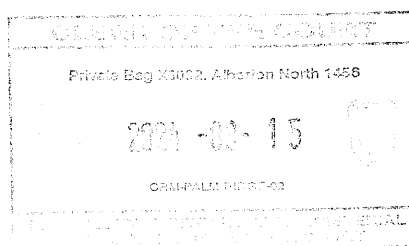
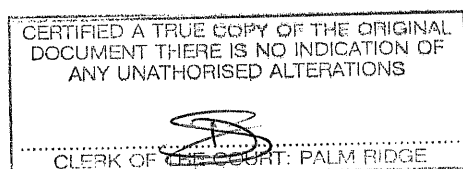
8. The prosecution has conceded that the alternative prayer of Mrs Mtimkulu stands to be recognised in that it is agreed between the prosecution and Mrs Mtimkulu that in the determination of an appropriate confiscation order and the satisfaction of a confiscation order via a realisation order made in terms of section 30 (read with sections 31, 32, 33 and 34) of the POCA (**a realisation order**) and when factoring in and employing the Langebaan and Parow properties:

8.1. Only the 50% registered ownership therein of the defendant constitutes realisable property of the defendant in terms of section 14 of the POCA, and

8.2. in a realisation of the Langebaan and Parow properties per a realisation order, only the net realised 50% share from such sales of the defendant may be employed towards the satisfaction of the confiscation order and Mrs Mtimkulu stands to receive and retain the other net realised 50% share as her property.

B: THE FINDINGS IN CONCLUSION OF THE COURT RELATIVE TO THE MAKING OF A CONFISCATION ORDER ARE THAT:

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1. It is established that the defendant has and continues to derive benefit in at least the total sum of R5 580 206,22 (**the benefit amount**) from the conviction offences and, in particular, from the combined charge 1 and 4 conviction offences. (The benefit amount includes an adjustment to take into account subsequent fluctuation in the value of money, per the statements accepted by the court as provided in terms of section 21 (1) (a) of the POCA by the prosecution).
2. With regard to section 18 (2) (b) of the POCA, the court is not satisfied that the amount which may be realised is less than the benefit amount.

C: WHEREFORE THE COURT ORDERS AS FOLLOWS

1. A confiscation order is made in terms of section 18 (1) read with section 18 (2) of the POCA against the defendant in favour of the State as follows:

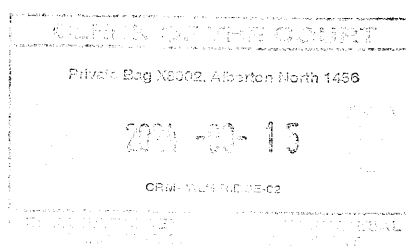
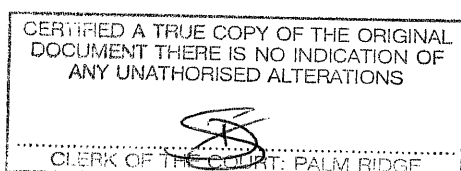
1.1. The defendant is to pay to the State:

1.1.1. The amount of R5 580 206,22 (five million five hundred and eighty thousand and two hundred and six Rand and twenty-two Cents) (**the confiscation amount amount**), including

1.1.2. interest on the confiscation amount unpaid at the prescribed rate from the date of this order to the date of payment.

1.2. Payment of the confiscation amount and any interest amounts due are to be paid to the Passenger Rail Agency of South Africa (PRASA) by way of payment into a nominated bank account of PRASA provided in writing by the Chief Executive Officer (CEO) of PRASA. Such payment shall be deemed to be payment to the

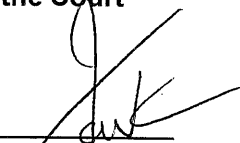
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State and upon such payments being completed the confiscation order will be satisfied.

2. Proof of payment/s made in satisfaction of the confiscation order shall in terms of a mutually agreed arrangement be provided by PRASA to the Asset Forfeiture Unit, Johannesburg in the National Prosecuting Authority.
3. A copy of this order duly certified by the clerk of the court shall in terms of a mutually agreed arrangement be forwarded per email by the prosecutor to the defendant and Mrs Mtimkulu or their legal representatives and the legal representative of Assetline.

By order of the Court



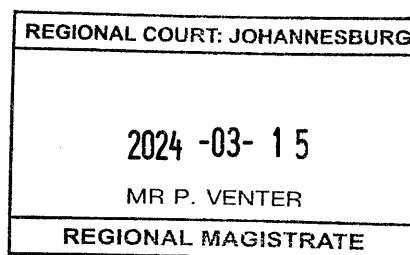
Name: PHILIP VENTER.

Date: 15/03/2024.

Regional Court Magistrate

Specialised Commercial Crime Court

Palm Ridge Magistrate's Court



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