

FORM A ANNEXURE

INTRODUCTION

The information officer's attention is called to sections 11, 23, 25, 78(2), 82 and 90(1) of the Promotion of Access to Information Act 2 of 2000 ('PAIA'), and to the Supreme Court of Appeal's reminder in paragraph 8 of its judgment in MEC for Roads and Public Works, EC v Intertrade Two (Pty) Ltd 2006(5) SA 1 (SCA) that 'Section 32 of the Constitution confers upon every person a general and unqualified right of access to any information held by the State and its organs.'

To provide the context in which this records request is made and to point up the unprecedented gravity of this matter, the Notes provided under the record specifications below are for the information both of the information officer and of the High Court at Pietermaritzburg, to which the requester anticipates having to apply under section 78 of PAIA to compel compliance with this request immediately upon the expiry of the time prescribed by section 25 for the JSC's response, in view of its repeated failures to respond to his prior record requests in casual disregard for its information transparency obligations in our open democracy imposed on it by the Bill of Rights. Should the JSC indeed illegally and unconstitutionally withhold all or any of the requested records, as it's done before, some of these Notes will also point up its motives for concealing them.

Although irrelevant under section 11(3) of PAIA to the requester's entitlement to access the requested records and to the proper, lawful decision of this request, the requester nonetheless records that one of his purposes in making Part 1 of this request is to expose to interested foreign governments and to other parties, on the fullest available documentary evidence, the JSC's scandalous, illegal and unconstitutional failure to hold Mlambo JP and Waglay JP to account for their impeachable, capital misconduct, finely detailed and squarely substantiated in the requester's several complaints against them, filed with JSC's Judicial Conduct Committee ('JCC') in mid-2017, and to call their attention to unresolved corruption in the South African judiciary at head of court level, indicted and



vouched in the complaints, as well as to the JSC's/JCC's repeated retaliation against the requester in 2018 by attempting to eliminate him professionally and thereby discredit and neutralise him as the complainant as to these judges' gross misconduct.

These several foreign governments and other interested parties are listed both in the address bar and in paragraph 19 of Brink's currently pending appeal against Zondi JA's dismissal of the requester's eight complaints against Mlambo JP in June 2021 – following the example set by his brother Seriti JA (ret.), who likewise looked away from the real evidence presented in support of complaints of major corruption in the Arms Deal and who likewise reported, transparently falsely, that he found no fault with it. As is notorious, Seriti JA's false report (with Musi J) was later reviewed and set aside by the High Court; and the JCC is currently seized with complaints of impeachable misconduct against both judges on account of their failure to conduct a proper enquiry into these documented corruption complaints.

Zondi JA will be charged similarly before the JCC in due course. In the language of retired Constitutional Court judge Johann Kriegler speaking on television and reported in the newspapers on 1 March 2021, in which he was criticising Hlophe JP's judgment in the Bongo case, Zondi JA's dismissal of the requester's eight documented capital complaints against Mlambo JP was 'patently dishonest'.

More than four years since the requester lodged his judicial corruption complaint against Waglay JP, supported by the conclusive written evidence of it found in the court file, and more than three since the latter responded and the requester commented on his pathetic response, the complaint remains undecided – the moral of which is that contrary to the look and show of the Hlophe JP case the JSC and JCC are evidently unconcerned about allegations of improper, unlawful influence in judicial decision-making unless and until newspaper journalists and interested NGOs get onto them.

Part 2 of this request also goes to the integrity of the JSC, in light of its conduct in the Hlophe JP matter in early 2013.



RECORDS REQUESTED

PART ONE

1. A record of the current membership of the Judicial Service Commission ('JSC'); alternatively, if no single record reflects all the JSC's current members, all their individual written appointments to the JSC.

NOTE: The list of JSC members published on the South African Judiciary website is out of date; see <https://www.judiciary.org.za/index.php/judicial-service-commission/members-of-the-jsc>. A recent screen-shot of this stale list is accessible at www.illegal-aid.co.za/JSC/PAIA/Docs/Stale_JSC_member_list.pdf.

2. A record of the current membership of the Judicial Conduct Committee ('JCC'); alternatively, if no single record reflects all the JCC's current members, all their individual written appointments to the JCC.
3. The minutes of any and all JSC and/or JCC meetings at which the several gross misconduct complaints filed by the requester ('Brink') in mid-2017 against Dunstan Mlambo JP and Basheer Waglay JP were discussed.

NOTE: The complaints; the two judges' responses; Brink's invited comments on them; Zondi JA's decision dismissing the complaints against Mlambo JP; and Brink's notice of appeal against the dismissal are all accessible at illegal-aid.co.za/JSC.

4. The JCC chairperson's decision in 2017 under section 16 or 17 of the Judicial Service Commission Act 9 of 1994 ('JSC Act') as to whether, in charging Mlambo JP with:

suborning perjury; repeatedly conniving at and colluding in the illegal and unconstitutional suppression of public records duly requested under the Promotion of Access to Information Act 2 of 2000 ('PAIA') to obstruct an investigation of jobs-for-pals recruitment corruption at LASA [*Legal Aid South Africa*] in which he was centrally involved; and lying and false 'confidential' reporting on multiple scores to the Minister of Justice and



Constitutional Development (as the Department was then called), and then to the Portfolio Committee of the National Assembly for the same Department, to put down and pervert enquiries they'd separately and independently instituted into this corruption and its cover-up, involving *inter alia* the said persistent illegal and unconstitutional withholding of duly requested records to hinder its exposure

Brink had filed 'valid' 'impeachable complaints' against Mlambo JP as contemplated by section 16, or merely 'valid' 'serious, non-impeachable complaints' as contemplated by section 17, warranting 'remedial steps' (per section 17(8)) no more serious than an 'apolog[y]', 'reprimand', 'written warning', 'compensation', 'counselling', and/or 'training' in how judges should behave themselves.

NOTE: The indented block quotation is from Brink's letter of 29 November 2019 to the Chief Justice in his capacity as JSC chairperson *ex officio* under section 1 of the JSC Act, in which he protested *inter alia* the JCC's failure to have decided his complaints. The letter is accessible at illegal-aid.co.za/JSC.

Brink's eight capital complaints against Mlambo JP, and further documents in the case, are accessible at illegal-aid.co.za/JSC/Mlambo_JP.

Both sections 16 and 17 of the Act required that the chairperson him/herself be 'satisfied' one way or the other, and not some other member(s) of the JCC. In other words, he/she was required by the Act to first satisfy him/herself that the complaints were 'valid', *i.e.* that Brink had filed facially answerable misconduct charges that weren't obviously 'frivolous or lacking in substance' and fit for summary dismissal under section 15.

If 'satisfied' that Brink had 'established' 'valid' 'impeachable complaints', section 16(1)(a) required that 'the Chairperson must ... refer the complaint[s] to the Committee in order to consider whether it should recommend to the Commission that the complaint should be investigated and reported on by a Tribunal'.

If 'satisfied' that Brink had 'established' 'valid' 'serious, non-impeachable complaints', section 17(1) required that 'the Chairperson or a member of the



Committee designated by the Chairperson must enquire into the complaint in order to determine the merits of the complaint.’

If the complaints were initially duly processed under the Act, a record will exist of this important preliminary determination by the JCC chairperson.

5. The JCC chairperson’s decision in 2017 under section 16 or 17 of the JSC Act as to whether, in charging Waglay JP with violating his judicial oath to ‘administer justice to all persons alike without fear, favour or prejudice’, to wit by acting under improper influence in deciding a case before him, which improper influence was exerted on him:

in the form of an anonymously written, unsigned, undated, and unstamped “memorandum” crudely disparaging me [Brink] to devastate my credibility, and dishonestly misrepresenting the issues in my case at trial and my case on appeal – calculated to poison him against me, prejudice his consideration of my petition for leave to appeal, and pervert its decision, as indeed it did

Brink had filed a ‘valid’ ‘impeachable complaint...’ against Waglay JP as contemplated by section 16, or merely a ‘valid’ ‘serious, non-impeachable complaint...’ as contemplated by section 17, warranting ‘remedial steps’ (per section 17(8)) no more serious than an ‘apolog[y]’, ‘reprimand’, ‘written warning’, ‘compensation’, ‘counselling’, and/or special remedial ‘training’ in what a judge’s oath means, besides the salary.

NOTE: The indented block quotation is from Brink’s letter to the Chief Justice mentioned in the Note to item 4 above. Brink’s judicial corruption complaint against Waglay JP, his response, and Brink’s comments on it, are accessible at illegal-aid.co.za/JSC/Waglay_JP.

As said in the Introduction above, now more than four years since the complaint was filed in June 2017, and over three years since Waglay JP responded to it in June 2018, and Brink commented the following month, the JCC has yet to decide it – flagrantly traducing the Chief Justice’s repeated public assurances, of which Brink reminded him in his November 2019 letter by quoting them all back at him, that delinquent judges will be held to account.



In his patently insupportable, disgraceful decision, in the Seriti JA manner, to dismiss the first of Brink's eight complaints against Mlambo JP (currently under appeal), Zondi JA stated both falsely and irrelevantly in his paragraphs 7–12 that in this first complaint Brink:

alleges that Mlambo JP persisted with his personal attacks on him to 'improperly influence and prejudice [him] against Judge President Waglay' and as a result his petition for leave to appeal was dismissed. He maintains that again, this was a further instance of defeating the ends of justice by Mlambo JP. [Zondi JA's parenthesis]

In truth and in fact, although Brink's first complaint indeed incidentally mentioned and proved LASA's perversion of Waglay JP's decision of Brink's petition for leave to appeal the dismissal of his labour action against LASA – richly illustrating the extent of the criminal depravity and corruption at LASA under Mlambo JP's leadership (which categorically proven case of defeating the ends of justice left Zondi JA notably unperturbed) – Brink's first complaint didn't charge Mlambo JP with authoring the criminal 'memorandum' importuning Waglay JP to toss Brink's case; instead, it charged Mlambo JP with suborning the perjury of his attorney in alleging on his instructions, absolutely falsely on affidavit in the Labour Court, that in a 'most disturbing, reprehensible and brazen act of disrespect' Brink had 'left the KZN province and attended unannounced and without warning at the office of the Respondent [Mlambo JP] in the South Gauteng High Court. The Respondent did not take kindly to the Applicant's [Brink's] conduct. In the face of litigation where the Legal Aid SA is represented the Applicant's conduct amounts to professional misconduct.' Which sworn allegation to the labour judge, persisted with by Mlambo JP on oath to JCC member Zondi JA was pure malicious invention contrived to wreck Brink's credibility and torpedo his application for leave to subpoena Mlambo JP for cross-examination *inter alia* on the numerous criminal lies he told the Justice Portfolio Committee to pervert its special enquiry into recruitment corruption at LASA and its repeated illegal and unconstitutional suppression of duly requested records to obstruct an investigation of this corruption. (See complaints 7 and 8 at illegal-aid.co.za/JSC/Mlambo_JP.)

Obviously, Zondi JA's dismissal of Brink's first complaint against Mlambo JP didn't resolve Brink's complaint against Waglay JP; and indeed, the heading of Zondi JA's abysmal decision in July 2021 (under appeal) mentions Brink's complaints against Mlambo JP only.



6. The JCC chairperson's allocation of Brink's eight gross misconduct complaints against Mlambo JP to one or more other JCC members for investigation in 2017.

NOTE: Paragraph 36 of Zondi JA's decision states: 'The complaints were referred to me ... after they were considered by two members of the JCC, who recommended to the Chairperson of the JCC that they be dealt with in terms of s 17 of the Act.' (Brink's ellipsis) It may be that these two judges were appointed after Brink wrote to the Chief Justice in November 2019, protesting the JCC's failure to have decided his complaints, then more than two-and-a-half years after he'd filed them, and Mlambo JP had responded and Brink commented the following year.

7. The JCC chairperson's allocation of Brink's gross misconduct complaint against Waglay JP to one or more other JCC members for investigation in 2017.

NOTE: Then-JSC secretary the late Lynette Bios telephoned Brink on 11 February 2019 to request a copy of this complaint, indicating almost certainly that the original, acknowledged complaint had been lost, and suggesting possibly that another judge had asked for a replacement copy.

8. The written instruction in October 2017 issued to the late Lynette Bios, then-secretary of the JSC, by the chairperson of the JCC, or by another member (or members) handling Brink's eight complaints against Mlambo JP, that she/he again 'submit all of his complaints', preferably 'with an index and proper pagination referencing each of the complaints'.

NOTE: The instruction is quoted in Ms Bios's email to Brink on 31 October 2017:

> Dear Mr. Brink
>
> I have been instructed by the Judicial Conduct Committee to kindly request
> you to submit all of his complaints, so as to avoid a piecemeal
> consideration and determination of these matters. Moreover, as his
> submission runs into many hundreds of pages, it would be most helpful if
> you could furnish the Committee with an index and proper pagination
> referencing each of the complaints."
>
> Kind regards
>
> Lynette Bios



The use of the third person in the second line from the sixth word onward and the closing inverted commas reveal that Ms Bios largely copied and pasted from the written instruction she'd received. (In composing her email, Ms Bios clearly omitted the opening inverted commas.)

The original record of Ms Bios's email is accessible at [illegal-aid.co.za/JSC/PAIA/Docs/ Bios_email_31_October_2017.pdf](http://illegal-aid.co.za/JSC/PAIA/Docs/Bios_email_31_October_2017.pdf).

The written instruction will identify the judge(s) who issued it.

9. The letter or note under which then-JSC secretary Bios furnished Brink's resubmitted eight complaints against Mlambo JP, now bundled, indexed and paginated, to the judge(s) who requested them in this form.

NOTE: See item 8 above.

10. The JSC's advice to the chairperson of the Society of Advocates of KwaZulu-Natal ('the Society') in February or March 2018 that the Society should apply to the High Court for an order striking Brink off the roll of advocates (for impugning Mlambo JP's and Waglay JP's integrity in making his gross misconduct complaints against them to the JCC under section 14 of the JSC Act).

NOTE: That the JSC indeed advised the Society in early 2018 to have Brink struck off for duly complaining *inter alia* about Mlambo JP's and Waglay JP's impeachable misconduct – first in his court papers in his several litigations against Legal Aid South Africa ('LASA') in the period 2011–15, then in his complaints to the JCC in mid-2017 – is vouched by the minute of the Society's Bar Council meeting on 18 March 2018 (unexpectedly turned up in September 2020 in response to Brink's request under PAIA for relevant Bar Council meeting minutes), at which meeting LASA's spurious and malicious complaint against Brink in November 2015, charging that he'd professionally disgracefully criticized Mlambo JP (and others), was discussed:



In the meantime the chairman had communicated with the Judicial Services Commission who had reported that Brink had lodged a complaint against Mlambo JP and Waglay JP which a committee of the JSC was investigating. The JSC had however advised the chairman that the Society should proceed with an application to strike Brink off. The chairman reported that it would be appropriate that the outcome of the JSC committee's investigation should be awaited since if that committee determined that Brink's complaint was without merit, the way would then be clear to move an application for the striking off of Brink from the roll. The chairman did note that in those circumstances in all probability this complaint would be dealt with by the Legal Council.

The complete minute is accessible at illegal-aid.co.za/JSC/PAIA/Docs/Bar_Council_March_2018_minute.pdf.

This staggering advice to the Society is likely to have been conveyed by then-JSC secretary Bios, because she telephoned the Society's chairperson a few months later to ask how the Society was getting on with having Brink struck off; see the Note to item 14 below.

The background to this is that in pursuit of an extreme offence-as-defence strategy to counter Brink's extraordinarily serious criminal corruption complaints against then-LASA Board chairperson Mlambo JP and other top LASA officers, levelled in his papers in his several litigations against LASA (see also Brink's subsequent twelve documented criminal complaints against then-CEO Vidhu Vedalankar and his complaint detailing and vouching LASA executive management's multiple major ongoing contraventions of the Public Finance Management Act, all accessible at illegal-aid.co.za/AG), LASA filed a complaint against Brink in November 2015, charging him before the Society of having professionally disgracefully attacked Mlambo JP's integrity – in alleging, and substantiating, his repeated criminal and other impeachable mendacity (complaints 1, 5, 6 and 7) and his repeated deliberate complicity in LASA executive management's violation of Brink's fundamental right to public body information (complaints 2–5), in furtherance of a criminal cover-up of top-level recruitment corruption at LASA, in which Mlambo JP was centrally involved.



In other words, LASA sought to pre-emptively neutralise Brink as witness to the criminal corruption he'd encountered and uncovered at LASA, in which Mlambo JP was involved, by annihilating him professionally and strangling him financially.

Indeed, by copying its complaint to the Society on to the Magistrates Commission, LASA got Brink summarily fired a few days later from his post as an acting magistrate in Eshowe, KwaZulu-Natal, without notice of the complaint let alone an opportunity to answer it. (Brink only learned of LASA's hand in this eighteen months later from the Chief Magistrate at Pietermaritzburg.)

Though signed by then-Legal Executive Thembile Mtati, the complaint was almost certainly ghost-written by Chief Legal Executive Patrick Hundermark at Mlambo JP's instance.

In similar manner, straining to end Brink's corruption investigation, LASA (Hundermark) corruptly tried blocking him from (a) accessing any more of LASA's records – including records that LASA (Hundermark) had expressly pledged to turn over in a settlement agreement drawn at court, resolving Brink's early PAIA litigation against LASA, on which agreement LASA naturally reneged by continuing to withhold the pledged records, illegally, unconstitutionally and in breach of its total surrender treaty; and (b) from enforcing his fundamental right to access these records in the courts, under section 34 of the Constitution and section 78 of PAIA – all this by way of a baseless, vexatious application made to the High Court at Pietermaritzburg in 2016 have Brink declared a vexatious litigant. This last-ditch aggressive manoeuvre to terminate Brink's corruption investigation by trying to strip him of two crucial fundamental rights on which he absolutely relied to pursue it, namely to public body information and to obtain redress in the courts when illegally denied, failed a year later. The application was quickly dismissed after LASA's counsel's brief, obviously factually and legally vacant argument, and Brink wasn't even called on to argue. The papers – notably Brink's heads of argument with which the judge agreed – are accessible at illegal-aid.co.za/VPA.

What the JSC's recorded advice to the Society in February or March 2018 reveals is that before the JCC had even sought Mlambo JP's response to Brink's complaints (requested of him some months later and filed on 4 June 2018), much less had investigated and duly resolved to uphold or dismiss the complaints, that is before all the papers were in and the matter was ripe for decision, the JCC judge(s) handling the matter had already closed ranks around his/her/their corrupt colleague; had demonstrated his/her/their extreme prejudice against Brink as



complainant; had prejudged Brink's complaints in Mlambo JP's favour without a proper consideration on all the papers contemplated by section 17 (complaint, response, comments); and had joined LASA's corrupt attempt to assassinate Brink professionally for complaining – first in his litigations against LASA in 2011–15, and then again in his complaints to the JCC in mid-2017 – of Mlambo JP's extraordinarily serious misconduct, including his proven crimes.

In short, the JSC joined LASA in trying to kill Brink off as a witness to Mlambo JP's criminality and other capital misconduct – not by having him murdered like Babita Deokaren – but by trying to destroy his personal and professional reputation and thereby discredit him and his complaints by getting him kicked out the legal profession.

Brink's response to LASA's spurious, malicious professional misconduct complaint against him is treated in the Note to item 14 below.

11. The email, note or other correspondence with the JSC by Mlambo JP (or LASA Chief Legal Executive Patrick Hundermark or other LASA officer) motivating the JSC's advice to the Society in February or March 2018 that it should apply for Brink's strike-off from the roll of advocates.

NOTE: The possible, even likely, existence of such a record is suggested by LASA's documented history of repeatedly perverting ministerial, parliamentary and judicial enquiries in writing.

Brink's complaint against Waglay JP details and proves incontrovertibly with supporting documents, including a copy of the criminal instrument that was used to commit the crime, how a top LASA officer slipped him a 'memorandum' (see item 5 above) importuning him to toss Brink's petition for leave to appeal the dismissal of his labour action against LASA – which Waglay JP obligingly did on the turn, before all the prescribed papers had been filed and the matter was ready to be decided, after which he dissembled that Davis and Sutherland JJA had concurred in his dismissal of Brink's petition, whereas in truth and in fact they hadn't, because there's no record in or on the court file that they had, and it's obviously inconceivable that these appeal judges would have made such an important judicial decision without leaving any record of it whatsoever.

The several cogent indications that Mlambo JP authored the criminal 'memorandum' passed to Waglay JP (which the latter inadvertently left in the court file – to be chanced upon some months later during a search for any record of Davis



and Sutherland JJA's concurrence in Waglay JP's premature, irregular, and manifestly indefensible* dismissal of Brink's petition) are canvassed in Brink's invited comments on Waglay JP's response to the complaint in mid-2018. (*Among a multitude of other radical reversible errors identified in the petition, the trial judge Cele J misallocated the final onus of proof in the case, thereby totally vitiating his judgment, as would have been obvious to any honest and diligent appeal judge reading the petition, and not one corruptly moved to toss it at the written instance of his long-time colleague in the same court. The 'memorandum' is annexed to the complaint, accessible at illegal-aid.co.za/JSC/Waglay_JP.)

Brink's sixth, seventh and eighth complaints against Mlambo JP detail, vouch and prove his successful perversion of ministerial and parliamentary enquiries with multiple lies told in 'confidential' reports he provided them. The complaints are accessible at illegal-aid.co.za/JSC/Mlambo_JP.

Consistently with this persistent underhanded legal and ethical depravity, and consistent also with this similar fact evidence of Mlambo JP's criminal propensity, former Director General of the State Security Agency, Arthur Fraser, has alleged on affidavit to Zondo ACJ's State Capture Commission that Mlambo JP illegally colluded behind the scenes with President Cyril Ramaphosa to get a sensitive case removed from the court roll; see IOL report, 'Ramaphosa "manipulated" judge, former SSA boss claims in affidavit filed to Zondo Commission', 25 April 2021: online at bit.ly/33pNzoa.

12. The invitation under section 17(3)(a) of the JSC Act extended to Mlambo JP by the JCC in mid-2018 to respond to Brink's eight gross misconduct complaints against him; alternatively the instruction by the JCC given to its secretary to invite Mlambo JP's response to the complaints, and her invitation to him extended in accordance with this instruction.

NOTE: Mlambo JP delivered his response on 4 June 2018; see illegal-aid.co.za/JSC/Mlambo_JP.

13. The invitation under section 17(3)(a) of the JSC Act extended to Waglay JP by the JCC in mid-2018 to respond to Brink's gross misconduct complaint against him; alternatively the instruction by the JCC given to its secretary to invite Waglay JP's response to the complaints, and her invitation to him extended in accordance with this instruction.



NOTE: Waglay JP delivered his undated response on or about 22 June 2018, the date on which then-secretary Bios forwarded it to Brink for comment; see illegal-aid.co.za/JSC/Waglay_JP.

14. The instruction by the chairperson of the JSC, alternatively by the JCC members investigating Brink's eight gross misconduct complaints against Mlambo JP, given to then-JSC secretary Bios in August 2018 to enquire from the Society as to its progress in applying to the High Court for an order striking Brink off the roll of advocates (for formally complaining under section 14 of the JSC Act of Mlambo JP and Waglay JP's capital misconduct).

NOTE: As mentioned above, the minute of the Society's Bar Council's March 2018 meeting records that the JSC advised the Society in February or March 2018 to apply for Brink's strike-off.

On 8 August 2018 secretary Bios followed up on this advice by telephoning the Society's chairperson to enquire as to progress in the strike-off application, which enquiry he answered by email on the same day:

Dear Ms Bios

Thank you for the enquiry of today's date.

The bar council decided that it will for the time being not institute strike-off proceedings against Brink and that it will await the outcome of the complaint to the Judicial Service Commission. We are aware that there is nothing preventing the Society from moving an application but we are reluctant to do so because of the cost implications of such an application. We will know where we stand once the complaint to you has been dealt with and a decision will then be made as to the question of an application.

Kind regards

ADVOCATE G O VAN NIEKERK SC
Chairman, Society of Advocates, KZN

The complete record of the Society chairperson's email to Ms Bios mentioning her enquiry is accessible at

illegal-aid.co.za/JSC/PAIA/Docs/Van_Niekerk_email_to_JSC_August_2018.pdf.

The Society's secretary has informed Brink by email:

Item 3. Advocate van Niekerk SC has confirmed that he spoke with Ms Bois by telephone call and responded to her query with the email sent to her on 8 August 2018.

The complete record of the Society's secretary email to Brink (see page 3) is accessible at

illegal-aid.co.za/JSC/PAIA/Docs/Bar_Secretary_to_Brink_17_January_2021.pdf.

The improbability that Ms Bios telephoned rather than emailed her enquiry is not relevant to discuss here. Nor is the falsity of Society chairperson Van Niekerk SC's claim to Ms Bios, thereby misinforming the JSC, that 'there is nothing preventing the Society from moving an application' to have Brink struck off, seeing as the Bar Council hadn't passed any resolution to this effect after receiving Brink's answer to LASA's complaint, in the form of copies of his eight complaints against Mlambo JP.

More particularly, after Brink chanced to learn in early April 2017 that the Society had resolved *ex parte* to uphold LASA's complaint against him and to apply for his strike-off – without even notifying him of the complaint, much less inviting his response to it – and he requested a hearing, the Society agreed to this, and rescinded its strike-off resolution on 25 May 2017.

Brink then furnished the Society with copies of his eight gross misconduct complaints against Mlambo JP to the JCC filed in June–July 2017 as his complete answer to LASA's complaint to the Society against him. The Society did not resolve to apply to strike Brink off after this and left the matter undecided, with the result that the undetermined complaint was inherited by the Legal Practice Council ('LPC') to decide under section 116(1) of the Legal Practice Council Act.

On 10 March 2020, the LPC resolved to investigate LASA's complaint afresh, and invited Brink to respond to it again, which he did on 31 May 2021, very extensively, canvassing the many subsequent developments in the matter, after being long delayed by LASA's characteristic failure to produce repeatedly requested relevant documents.

Now more than three-and-half months later, LASA (Hundermark) has yet to comment on Brink's second response to its (his) false complaint. The whole sordid saga is canvassed, with supporting documents, at pages 19–85 of Brink's second response, accessible online at illegal-aid.co.za/LPC.

Ms Bios's enquiry in August 2018 as to the Society's progress in Brink's strike-off reveals that after Mlambo JP responded to Brink's complaints against him in June 2018, and Brink commented on his response later that month, but before the complaints were decided (eventually, in July 2021, three years later, and only after Brink's persistent nagging), the JSC again approached the Society to professionally exterminate Brink as the complainant regarding Mlambo JP's criminal and other impeachable misconduct, like a mob of gangsters murdering witnesses in a criminal case pending against a criminal fellow of theirs.



15. The instruction given to then-JSC secretary Bios in late 2018 or early 2019 by the judge(s) investigating Brink's complaint against Waglay JP that she request Brink to provide a further copy of the complaint.

NOTE: Ms Bios telephoned Brink on 11 February 2019 to request a copy of the hard-copy original complaint, which he duly provided by email. Brink's contemporaneous record of this is accessible at illegal-aid.co.za/JSC/PAIA/Docs/Bios_call_and_email_11_February_2019.pdf.

16. All and any other correspondence between then-JSC secretary Bios and any judge(s) on the JCC concerning the loss of Brink's original complaint against Waglay JP.

NOTE: See the note to item 15 above.

17. The record of the original decision made by the chairperson of the JCC or delegated member(s) sometime before 11 February 2019 to dispose of Brink's capital complaints against Mlambo JP merely under section 17 of the JSC Act.

NOTE: Brink's letter to the Chief Justice of 29 November 2019 mentions:

On 11 February 2019, during a phone call to request another copy of my complaint against Waglay JP (the acknowledged original I'd delivered had been lost), JSC secretary Lynnette Bios responded to my query about progress in the prosecution of my complaints against Mlambo JP, also made way back in mid-2017, that they were being dealt with under section 17 of the JSC Act.

As recorded in Brink's letter to Zondo DCJ on 29 November 2020, covering a copy of his letter to Mogoeng CJ a year earlier, then-JCC secretary Sello Chiloane responded to Brink's letter to Mogoeng CJ by telephoning him after hours at 20h33 on 18 February 2020, urgently requesting copies of his complaints against Mlambo JP and Waglay JP, their responses to the complaints, and Brink's comments on them – which Brink provided via Dropbox a couple of hours later. The JSC acknowledged Brink's letters to Mogoeng CJ and to Zondo DCJ in writing on 17 February 2021. All this correspondence is accessible at illegal-aid.co.za/JSC.



18. The instruction by the JCC chairperson or other JCC member(s) given to then-JCC secretary Sello Chiloane in February 2020 to ask Brink for copies of his complaints against Mlambo JP and Waglay JP.

NOTE: As said in the Note to item 17 above, Chiloane carried out this instruction by telephoning Brink on 18 February 2020 to make this request. Brink's log of this call is accessible at illegal-aid.co.za/JSC/PAIA/Docs/Chiloane_call_log.pdf.

Brink's compliance with the JCC's request a couple of hours later, acknowledged by Chiloane by email, is vouched by the record of their email correspondence, accessible at illegal-aid.co.za/JSC/PAIA/Docs/Brink_and_Chiloane_emails_February_2019.pdf.

19. The JCC chairperson's appointments of the 'two members of the JCC' who 'recommended to the Chairperson of the JCC' that Brink's eight complaints against Mlambo JP 'be dealt with in terms of s 17 of the Act', *i.e.* as 'serious, non-impeachable complaints' (per the heading of that section) – mentioned in paragraph 36 of Zondi JA's decision dismissing Brink's complaints against Mlambo JP.

NOTE: In paragraph 36 of his decision, Zondi JA states: 'The complaints were referred to me ... after they were considered by two members of the JCC, who recommended to the Chairperson of the JCC that they be dealt with in terms of s 17 of the Act.' Along with Brink's appeal notice showing what a pathetic shambles it was, Zondi JA's decision is accessible at illegal-aid.co.za/JSC/Mlambo_JP.

In view of the fact that copies of Brink's eight complaints, Mlambo JP's response, and Brink's comments on it were requested by secretary Chiloane on 18 February 2020, it appears that both the original complaints submitted in June–July 2017 plus Brink's resubmitted bundled, indexed and paginated copies submitted in November 2017 had been mislaid, and that in response to Brink's letter to Mogoeng CJ in November 2019 he appointed these two members of the JCC to deal with the matter – unless they were the same judges who took the decision to dispose of Brink's capital complaints merely under section 17 of the JSC Act, notified to Brink by then-secretary Bios on the telephone on 11 February 2019, which seems unlikely, since, if so, they wouldn't have needed yet more copies of the papers, in addition to the originals and, a few months later, the bundled, indexed and serially paginated copies that Brink delivered.



20. The recommendation by the ‘two members of the JCC’ who ‘recommended to the Chairperson of the JCC’ that Brink’s eight complaints against Mlambo JP ‘be dealt with in terms of s 17 of the Act’.

NOTE: See the note to item 19 above.

21. The ‘letter dated 21 February 2020’ from the ‘Chairperson of the Judicial Conduct Committee’ in which he ‘referred these complaints’ by Brink against Mlambo JP ‘to me [Zondi JA] to be dealt with in terms of s 17 of the Judicial Service Commission Act, 9 of 1994 (JSC Act)’.

NOTE: See the note to item 19 above.

22. Zondi JA’s invitation to Mlambo JP in late 2020 to respond to Brink’s first gross misconduct complaint; alternatively the instruction issued by Zondi JA to the secretary of the JCC to invite Mlambo JP’s response to the complaint, and her invitation to Mlambo JP extended in compliance with this instruction.

NOTE: Zondi JA mentions this invitation in paragraphs 33–4 of his decision, and Mlambo JP indeed responded to it on 4 November 2020. His sworn response and Brink’s affirmed comment on it, demonstrating and proving Mlambo JP’s criminal mendacity, are accessible at illegal-aid.co.za/JSC/Mlambo_JP.

As Zondi JA correctly noted, Mlambo JP hadn’t answered the first complaint in his first response to all eight complaints in June 2018. Actually, as Brink pointed out in his appeal notice, Mlambo JP hadn’t answered other complaints as well, but Zondi JA hadn’t noticed.

23. Any and all correspondence between the JSC and LASA, the Society, the Auditor General, and/or any other parties regarding Brink’s gross misconduct complaints against Mlambo JP and/or Waglay JP.

NOTE: The Auditor General has enquired of Brink as to progress in the decision of his complaints against Mlambo JP.



24. Any record identifying the JCC judges appointed to decide Brink's appeal against Zondi JA's dismissal of his eight complaints against Mlambo JP on 8 June 2021.
25. Any and all email records archived on the Commission's email server, from 1 June 2017 to the date on which this records request is complied with, responsive to a search on the search-terms: 'Brink'; 'Mlambo'; '533/17'; and 'Waglay' where such email records have any relation to Brink's gross misconduct complaints against Mlambo JP and Waglay JP.
26. Any and all other JSC records bearing on the JCC's handling and disposal of Brink's gross misconduct complaints against Mlambo JP and Waglay JP.
27. The JCC's six-monthly reports to the JSC made under section 10(2) of the JSC Act in 2017, 2018, 2019, 2020, and 2021.
28. The JSC's annual reports to Parliament made under section 6 of the JSC Act for 2017, 2018, 2019, 2020 and 2021; alternatively material extracts from these reports dealing with disciplinary matters before the JCC.
29. The Chief Justice's delegation of any or all of his powers as chairperson of the JCC to the Deputy Chief Justice under section 8(3) of the JSC Act, if he indeed delegated them.
30. The JSC's manual published under section 14(1) of PAIA; alternatively, if the JSC hasn't published a PAIA manual, the exemption the Minister granted the JSC under section 14(5).

NOTE: Section 90(2) of PAIA provides: 'An information officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 commits an offence and is liable on conviction to a fine, or to imprisonment for a period not exceeding two years.'

31. If this request for records is dealt with by a deputy information officer, his or her written delegation as such under section 17(6)(a) of PAIA.



PART TWO

32. Any record(s), or material part thereof, identifying the members of the JSC comprising the majority who voted to support the written decision upholding the conclusion reported in April 2021 by the JCC Tribunal chaired by Labuschagne J that Hlophe JP was guilty of gross misconduct, as complained of by the Constitutional Court in May 2008.

NOTE: The Tribunal's report; the written decision upholding it, supported by the JSC majority; and the written decision rejecting it, supported by the JSC minority, are all accessible at illegal-aid.co.za/JSC/Hlophe_JP.

33. Any record(s), or material part thereof, identifying the members of the JSC comprising the minority who voted to support the conclusion in the other written decision which recommended that 'the Tribunal's finding that Hlophe JP was guilty of gross misconduct should be rejected.'

NOTE: This quoted language appears at the end of the written decision in Hlophe JP's favour, supported by the minority of JSC members.

34. Any record identifying the principle author of the anonymous decision against Hlophe JP supported by the JSC majority.

Note: Hlophe JP states in paragraph 49.5 of his founding affidavit supporting his application to review and set aside the findings and recommendation against him that it was 'widely reported' that 'the majority findings of the JSC ... was [*sic*] written by [Mlambo JP].' (Having regard to their prose style, it's very much more likely that these findings were ghost-written for Mlambo JP to present to the JSC as his own, if indeed he purportedly wrote and delivered the decision supported by the majority.) If these reports stated in Hlophe JP's said affidavit are correct – and even if there're wrong, and it was another, different member of the JSC (or other person) who authored the majority decision for the JSC's vote on it, with Mlambo JP merely joining the majority faction in recommending to the National Assembly that it vote to remove Hlophe JP from the bench – it means that Mlambo JP recommended that Hlophe JP be impeached for gross misconduct while himself guilty of the gravest imaginable criminal and other impeachable misconduct on multiple counts, closely particularised and documented in Brink's eight gross misconduct complaints against him (which capital complaints JCC



member Zondi JA tried sweeping under the carpet, after the JSC failed to eliminate Brink as a witness against Mlambo JP by seeking to have him professionally assassinated; see the Notes to items 3, 11, and 14 above).

Mlambo JP's criminal and other gross malfeasance detailed and substantiated in Brink's complaints obviously massively erodes the integrity of the decision, reportedly penned by Mlambo JP as a ranking member of the JSC and supported by the JSC majority, to uphold the JCC tribunal's April 2021 report condemning Hlophe JP, and it equally undermines the reliability of this majority decision as a basis for an impeachment vote in Hlophe JP's matter by the National Assembly.

If, as appears from the several cogent indications canvassed in Brink's complaint against Waglay JP, and further in his invited comments on his feeble response (see illegal-aid.co.za/JSC/Waglay_JP), Mlambo JP wrote and passed to Waglay JP, which is to say forged and uttered, the poisonous, defamatory, lying 'memorandum' that perverted the latter's decision of Brink's petition for leave to appeal the dismissal of his labour action against LASA (chaired by Mlambo JP at the time), it follows that Mlambo JP condemned Hlophe JP for precisely the impeachable misconduct he himself had committed in improperly, indeed criminally, influencing Waglay JP to throw Brink's case out (before all the papers were in, and without the knowledge of the two other appeal judges, Davis and Sutherland JJA, alleged in the dismissal order to have concurred in it).

35. Any record identifying the principle author of the anonymous decision in Hlophe JP's favour supported by the JSC minority.
36. The covering email to the secretary of the JSC to which the decision against Hlophe JP, supported by the majority of JSC members, was attached.
37. The covering email to the secretary of the JSC to which the decision in Hlophe JP's favour, supported by the minority of JSC members, was attached.
38. Attorney Noxolo Maduba's application in 2013 to be included on the JSC's list of suitable Tribunal members maintained by the JSC's Executive Secretary under section 23(1) of the JSC Act.

NOTE: Section 23(1) of the Act prescribes: 'The Executive Secretary must, in the prescribed manner and form, establish and maintain a list of persons who are not



judicial officers and who have been approved by the Chief Justice, acting with the concurrence of the Minister, as being suitable to serve on Tribunals in terms of section 22(1)(b).’

39. Any and all commendations of the said Ms Maduba, including any by then-LASA Board chairperson Mlambo JP, as a person ‘suitable to serve on Tribunals’ constituted to try judges on impeachable misconduct charges, especially where their integrity has been placed in issue.

NOTE: In December 2012, Ms Maduba resigned from her employment by LASA as a Regional Operations Executive on LASA’s national management executive committee following an internal investigation of recruitment corruption in her region. This was reported in the media at the time, and mentioned by Ms Maduba herself in a public statement she made.

40. The list prescribed by section 23(1) of the JSC Act in 2013, updated to include Ms Maduba as a person ‘suitable to serve on Tribunals’.
41. The record of the Chief Justice’s approval of Ms Maduba under section 23(1) of the JSC Act as a suitable person to serve on a JCC Tribunal.
42. The record of the Minister of Justice and Correctional Services’ concurrence under section 23(1) of the JSC Act in the Chief Justice’s approval of Ms Maduba as a person suitable for appointment to a JCC Tribunal.
43. Any commendation of Ms Maduba by Mlambo JP, or by other person(s), that she be appointed to the JCC Tribunal originally constituted in or about February 2013 to try the Constitutional Court’s complaint against Hlophe JP, namely that he improperly tried to influence two of its judges to decide a matter then pending before them in favour of former President Jacob Zuma.

NOTE: Brink’s complaint against Waglay JP details and documents an unequivocal, proven instance of successfully improperly influencing him to decide a case pending before him in LASA’s (and practically in Mlambo JP’s) favour; but in striking contradistinction to the JCC’s avid prosecution of the Constitutional Court’s complaint against Hlophe JP in which it alleged that he attempted to



improperly influence two of its judges in a case pending before them, the JCC has shown no interest in determining Brink's complaint against Waglay JP for throwing a case under written improper influence (the note later found in the court file and certified present in it by the registrar), notwithstanding repeated appeals to the Chief Justice and Deputy Chief Justice to see to the decision of this extraordinarily serious charge. Brink's letters are accessible at illegal-aid.co.za/JSC. See further the Note to item 5.

As said in the Note to item 34, Brink's complaint against Waglay JP and his comments on his response present the several cogent indications that Mlambo JP authored and delivered the 'memorandum' that incontrovertibly induced Waglay JP to dismiss Brink's petition to the Labour Appeal Court, and thereby criminally defeated the ends of justice.

Having regard to Brink's complaints to the JCC that Mlambo JP suborned the perjury of his attorney in the Labour Court, and then, in his belated November 2020 response to the complaint about this, lied criminally on affidavit to deceive and misdirect the JCC so as to pervert its determination of the complaint; repeatedly deliberately violated the information transparency provision of the Constitution; and lied on multiple scores in false 'confidential' reports both to the Justice Minister and to the Justice Portfolio Committee of the National Assembly to pervert enquiries they'd separately and independently instituted into top-level recruitment corruption at LASA (in which he was involved) and into LASA's repeated, blanket illegal and unconstitutional suppression of duly requested records (in which Mlambo JP was provably complicit), what role Mlambo JP played, if any, in Hlophe JP's condemnation will be highly significant. And it will bear heavily on the integrity of the JSC majority vote to impeach him, and the reliability of this majority vote as a basis for the National Assembly's decision as to whether to remove Hlophe JP from the bench or not.

Mlambo JP's repeatedly demonstrated prejudice against Hlophe JP is canvassed in paragraph 49 of the latter's founding affidavit supporting his mid-September 2021 review application, accessible at illegal-aid.co.za/JSC/Hlophe_JP/5.Hlophe_JP_review_application_September_2021.pdf.

Hlophe JP's knowledge of Brink's complaints against Mlambo JP to the JCC is evinced by his mention of Brink in paragraph 49.7 of that affidavit. The paragraph contains three errors, however, enumerated and corrected at illegal-aid.co.za/JSC/Hlophe_JP, and pointed out by Brink to Hlophe JP's legal team.



Former President Jacob Zuma is also aware of Brink's complaints against Mlambo JP, having learned of them from a third party, upon which he requested that Brink brief him on them more fully at his residence at Nkandla at 9 pm on 22 February 2021. Brink reported the meeting to the Chief Justice in his capacity as chairperson of the JSC *ex officio*; see illegal-aid.co.za/JSC/Mogoeng_CJ.

44. Ms Maduba's letter of appointment to the said Tribunal in or about February 2013.
45. Hlophe JP's (and/or any other) subsequent objection(s) to Ms Maduba's appointment.
46. Ms Maduba's response, if any, to the objection(s).
47. Ms Maduba's letter of resignation from the Tribunal.

NOTE: During his telephone call to Brink on 14 November 2016, JSC secretary Chiloane told him that, as he recalled it, Ms Maduba had resigned from the tribunal 'to avoid an unseemly scandal'. Brink mentioned the affair in his first letter to JSC chairperson Mogoeng CJ on 29 November 2019. It's accessible at illegal-aid.co.za/JSC/Mogoeng_CJ.

48. Any and all communications by Mlambo JP concerning the removal of Hlophe JP from the JSC.

NOTE: Hlophe JP mentions Mlambo JP's surreptitious agency in his removal in paragraph 49.6 of his founding affidavit in his review application. It's accessible at illegal-aid.co.za/JSC/Hlophe_JP/5.Hlophe_JP_review_application_September_2021.pdf.

The look of it is that Mlambo JP got Hlophe JP kicked out the JSC on the basis that there was a pending impeachable complaint against him, while himself guilty of impeachable misconduct on multiple counts.

If Hlophe JP was booted after mid-2017, then Mlambo JP was himself also facing impeachable complaints pending before the JCC when he achieved this.

49. Any and all communications by Mlambo JP, or other persons, concerning the removal of Hlophe JP's counsel Masuku SC from the JSC.



NOTE: Masuku SC appears in the outdated, stale list of members currently published online by the judiciary. It's archived at [illegal-aid\JSC\PAIA\Docs\Old_JSC_member_list.pdf](file:///C:/Users/illegal-aid/JSC/PAIA/Docs/Old_JSC_member_list.pdf).

50. Records reflecting the dates on which Hlophe JP departed the JSC and Mlambo JP joined it.

