

IN THE SOUTH GAUTENG HIGH COURT, JOHANNESBURG

(REPUBLIC OF SOUTH AFRICA)

CASE NO:

In the matter between:

THE STATE

and

JACOB SELLO SELEBI

Accused

**PLEA EXPLANATION IN TERMS OF SECTION 115 OF THE
CRIMINAL PROCEDURE ACT, ACT 51 OF 1977**

The Accused confirms that he pleads not guilty to all the charges put to him and provides the following plea explanation in terms of section 115 of the Criminal Procedure Act.

1. **Count 1:**

1.1 The Accused denies that he directly or indirectly and wrongfully accepted and/or agreed and/or offered to accept

the gratifications as described in the charge sheet during the period 1 January 2000 to 31st December 2005 as alleged or at all.

- 1.2 The Accused further denies that he directly or indirectly and wrongfully accepted and/or agreed and/or offered to accept the gratifications from Agliotti and/or Kebble and/or Rautenbach and/or the public entities mentioned in the charge sheet in order to act and/or omitted to act, personally and/or by influencing another person/persons to act in the manner as alleged or at all.
- 1.3 The Accused denies further that any conduct on his part amounted to illegal, dishonest, unauthorised or bias exercise, or carrying out of performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other obligation.
- 1.4 The Accused further denies that any conduct on his part amounted to the abuse of a position of authority and/or a breach of trust and/or a violation of a legal duty or a set of

rules and/or was designed to achieve an unjust result and/or amounted to an authorised or improper inducement to do or not to do anything as alleged or at all.

1.5 The Accused denies that he acted unlawfully and/or with knowledge of unlawfulness.

2. **Sub Count 1:**

The Accused denies each and every allegation of unlawful and corrupt conduct as alleged in this charge or at all. The Accused further refers to the above explanation (Count 1) in this regard.

3. **Sub Count 2:**

The Accused denies each and every allegation of unlawful and corrupt conduct as alleged in this charge or at all. The Accused further refers to the above explanation (Count 1) in this regard.

4. **Count 2:**

4.1 The Accused denies that he is guilty of the crime of defeating or obstructing the administration of Justice.

4.2 The Accused further denies that he committed any act as alleged or at all during 1st of January 2000 to 31st of December 2005 with the intent to defeat or obstruct the cause of justice.

4.3 The Accused denies that he acted unlawfully and/or with knowledge of unlawfulness.

5. **Malicious prosecution:**

The Accused repeats previous statements to the fact that this prosecution against him is not *bona fide* but instituted with an ulterior motive under the following circumstances:

5.1 The relationship between the Accused as the National Commissioner of SAPS and the Directorate Special Operations (DSO) deteriorated substantially in the years preceding 2005 because the Accused supported the view that the DSO acted beyond their mandate by involving themselves in local and foreign intelligence matters not relating to investigations of criminal matters in the Republic

of South Africa and that they should be dissolved and incorporated in the SAPS;

5.2 During the latter half of 2005 the Accused as the National Director of SAPS obtained the following information:

5.2.1 That Mr. Bulelani Ngcuka ("Ngcuka"), during his term as National Director of Public Prosecutions (also the head of the DSO), approached Mr. Billy Rautenbach's attorney (Mr. Ramsay) ("Ramsay") suggesting a solution to Rautenbach's pending criminal case (investigated by the DSO) if Rautenbach co-operated with Ngcuka. The information was further that Ngcuka tried to extort a bribe from Ramsay and that he was more interested in information regarding mining rights in the Democratic Republic of the Congo and Zimbabwe than in the offences that Rautenbach allegedly committed. It further showed that Ngcuka/DSO was involved with the illegal gathering of Intelligence and involved themselves with Foreign

Intelligence Agencies in the Rautenbach investigation without any authorisation therefore.

5.2.2 That Advocate Pikoli ("Pikoli"), the National Director of Public Prosecutions obtained a material gratification through his wife from the late Brett Kebble/JCI Group in an improper way. The gratification consisted of shares in a public company, Simmer and Jack Limited, through other entities to wit Jaganda (Pty) Ltd and Vulisango (Pty) Ltd.

5.3 Towards the end of 2005 the Accused summonsed Pikoli, at that stage the National Director of Public Prosecutions, to his office to discuss the above issues.

5.4 With reference to the Rautenbach/Ramsay situation Pikoli claimed that he had no knowledge of these negotiations. His response was "*Oh it is a murky world.*" The accused warned Pikoli that they should not deal with fugitives with the assistance of Foreign Intelligence Agencies. Pikoli became very emotional about the issue of gratification to his

wife by Kebble/JCI and stated that his wife is his "*Achilles heel*". He did not deny the fact that his wife received gratification

5.5 The accused subsequently instructed the Directorate Crime Intelligence to proceed with their investigations in the above regard.

5.6 The Accused's above conduct caused a further deterioration in the relationship with the NPA/DSO. It must be borne in mind that the National Director of Public Prosecutions is indeed the person ultimately responsible and in control of the DSO. It must be remembered that the question of the further existence of the DSO was reaching a climax at that stage.

5.7 Shortly after the above confrontation with Pikoli the DSO started their "investigation" against the Accused.

5.8 It must also be born in mind that Ngcuka still exerted substantial influence in the DSO, despite the fact that he

was no longer the NDPP. Ngcuka exerted huge pressure on McCarthy, the head of the DSO to proceed with the campaign against the Accused.

5.9 Shortly after the "investigation" started information was leaked to the Press on an ongoing basis by the NPA/DSO in an attempt to destroy the Accused's credibility. This was done deliberately in accordance with a specific strategy agreed upon at a meeting including the senior management of the DSO.

5.10 The NPA/DSO further provided cabinet and/or the State President with false, misleading and/or untested information in order to have the Accused's employment as National Commissioner of SAPS terminated and/or suspended.

5.11 The NPA/DSO further provided false and misleading evidence under oath to this Honourable Court in order to ensure the continuation of the campaign against the Accused.

5.12 The NPA/DSO also approached a number of people with a history of criminal activities, and offered them indemnities against prosecution on serious crimes ranging from murder, attempted murder, drug trafficking, racketeering, money laundering, fraud, theft, intimidation, defeating the ends of justice etcetera in exchange for false statements implicating the Accused.

6. The Accused therefore pleads that the case against him was manipulated with *mala fide* intentions in an attempt to discredit him for the reasons as out above and to ensure the continued existence of the DSO

SIGNED at JOHANNESBURG on this day of OCTOBER 2009.

J S SELEBI

W W COETZEE
ATTORNEYS FOR ACCUSED