

"X" Mahale 28/10/2022
IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)

Case No: 036292/2022

In the urgent *ex parte* application of:

The National Director of Public Prosecutions

Applicant

In re: The amount of **R399 198.88** together with interest thereon held in ABSA account number 4097470165 held in the name of Classic Financial Services (One) (Pty) Ltd with registration number 2004/031624/07;

The amount of **R10 395 192.44** together with interest thereon held in Nedbank account number 1195277571 in the name of Classic Financial Services (One) (Pty) Ltd with registration number 2004/031624/07;

The amount of **R3 000 000** together with interest thereon held in FNB account number 62047917713 in the name of Jacoba Magdalena Geldenhuis with ID number 5410130145085;

The amount of **R5 750 000** together with interest thereon held in Nedbank account number 1009637290 in the name of Murry Pierce Kilgour with ID number 5905195084087.

~~DRAFT ORDER~~

On 25 October 2022

T-C

BEFORE THE HONOURABLE JUSTICE MAHALELO, IN CHAMBERS

Having read the notice of motion and its related affidavits and annexures, and having heard counsel for the applicant,

IT IS HEREBY ORDERED THAT:-

THE PROPERTY

1. A preservation order is granted with immediate effect in terms of section 38(2) of the Prevention of Organised Crime Act 121 of 1998 (**the POCA**), preserving property, being:

1.1 The amount of **R399 198.88** together with interest thereon held in ABSA account number 4097470165 held in the name of Classic Financial Services (One) (Pty) Ltd with registration number 2004/031624/07;

1.2 The amount of **R10 395 192.44** together with interest thereon held in Nedbank account number 1195277571 in the name of Classic Financial Services (One) (Pty) Ltd with registration number 2004/031624/07;

1.3 The amount of **R3 000 000** together with interest thereon held in First National Bank (**FNB**) account number 62047917713 in the name of Jacoba Magdalena Geldenhuys with ID number 5410130145085; and

1.4 The amount of **R5 750 000** together with interest thereon held in Nedbank account number 1009637290 in the name of Murry Pierce Kilgour with ID number 5905195084087

(hereinafter collectively referred to as **the property**).

PROHIBITION AGAINST DEALING IN ANY MANNER WITH THE PROPERTY

2. In terms of section 38 (2) of the POCA, all persons are, other than as required and permitted by this order, prohibited from removing, taking possession of or control over,

dissipating, interfering with, diminishing the value of, pledging or otherwise hypothecating, attaching or dealing in any other manner with the property.

CURATOR BONIS

3. The appointment of a *curator bonis* is dispensed with.
4. ABSA, Nedbank and FNB are directed to preserve the property under their respective control by way of holding the property in interest bearing accounts, pending the finalisation of the forfeiture proceedings to be instituted as regards the property in terms of section 48 of the POCA.

SERVICE AND PUBLICATION

5. The applicant must in terms of section 39 of the POCA cause a copy of this order and annexure A thereto, together with copies of the documents filed in support of the application for this order, to be served on:
 - 5.1 Classic Financial Services (One) (Pty) Ltd with registration number 2004/031624/07 and registered address situated at 18 Montagu, Fiskaal Street, Glen Marais, Kempton Park;
 - 5.2 Jacobus Stefanus Geldenhuis with ID number 6003315080083 and residing at 18 Montagu, Fiskaal Street, Glen Marais, Kempton Park;
 - 5.3 Jacoba Magdalena Geldenhuis with ID number 5410130145085 and residing at 18 Montagu, Fiskaal Street, Glen Marais, Kempton Park;
 - 5.4 Murry Pierce Kilgour with ID number 5905195084087 and believed to be residing at 63 Herschel Road, Fish Hoek, Cape Town; and
 - 5.5 Any other known person who may possibly have an interest in the property.

6. The applicant must in terms of section 39 (1) (b) of the POCA cause notice of this order, in the form set out in Annexure A thereto, to be published in the Government Gazette as soon as practicable after the order is granted.
7. In the event that it appears to the applicant that any of the entities or individuals identified for service frustrate attempts of service on any of them, the applicant and/or the Sheriff is authorised to enlist the assistance of members of the SAPS to effect service on such entities or individuals.
8. In the event of a return of non-service by the Sheriff or members of the SAPS, as the case may be, on any of the entities or individuals identified for service, the applicant is authorised to effect service on such entities or individuals by publication of notice of the order, in the form as set out in annexure A to the draft order, in one edition of *The Star* newspaper, which publication enjoys widespread circulation within South Africa. Such publication or service by members of the SAPS in terms of this order shall at the same time constitute proper service on any person who may have an interest in the property and shall constitute full compliance with section 39 (2) of the POCA and shall further constitute a valid factual and legal basis for the applicant to launch subsequent forfeiture proceedings, notwithstanding that service may not have been effected by the Sheriff as prescribed by section 48 (3) of the POCA.
9. At forfeiture stage an affidavit shall be delivered by the applicant particularising the method of service and setting forth reasons why such other form of service constitutes full compliance with section 39 (2) and/or section 48 (3), as the case may be.

ENFORCEMENT OF THE ORDER

10. The applicant is to provide an original of this order, or a copy thereof certified by the Registrar as a true copy, to the appropriate officials at ABSA, Nedbank and FNB

respectively who, upon receipt, is to enforce the order. The said original or copy may be provided to the said official in electronic scanned form via a nominated email address.

11. Upon request, the banks are to provide the applicant with balances in the bank accounts.
12. Any person who has an interest in the property and who intends opposing the application for an order forfeiting the property to the State or applying for an order excluding his or her interest from a forfeiture order in respect of the property, must enter an appearance giving notice of his or her intention in terms of section 39 (3) of the POCA.

ENTRY OF APPEARANCE TO OPPOSE FORFEITURE ORDER

13. As stipulated in section 39 (4) (b) of the POCA, such notice shall be delivered to the applicant within 14 days after the date when notice of the order is published in the Government Gazette.
14. As stipulated in section 39 (5) of the POCA, a notice in terms of section 39 must contain full particulars of the chosen address for the delivery of documents concerning further proceedings in this matter and must be accompanied by an affidavit setting out:
 - 14.1. the full particulars of the identity of the person giving the notice;
 - 14.2. the nature and extent of his or her interest in the property concerned;
 - 14.3. whether he or she intends opposing the making of the forfeiture order, or whether he or she intends applying for an order excluding his or her interest in that property from the operation of the order; and
 - 14.4. the basis of the defence upon which he or she intends to rely in opposing a forfeiture order or the basis for applying for the exclusion of his or her interests from the operation thereof.

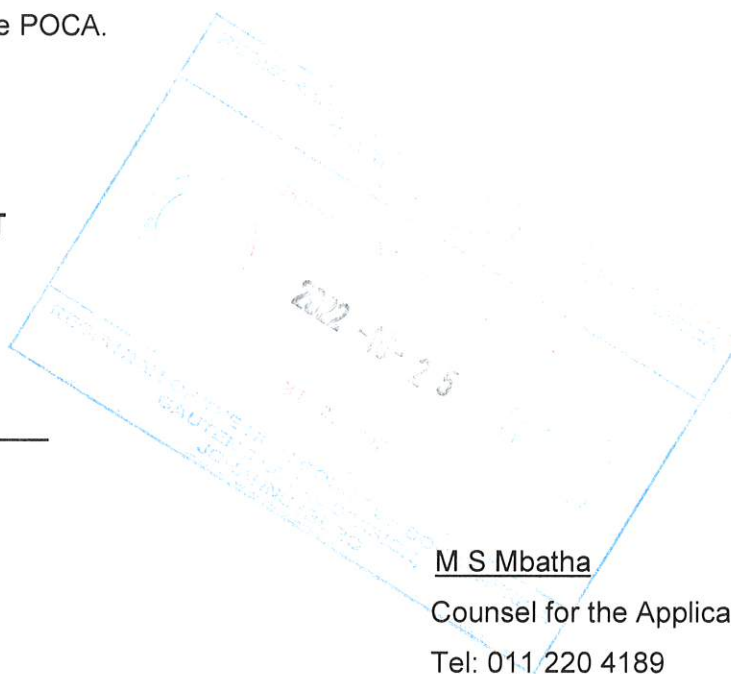
RECONSIDERATION OF THE PRESERVATION ORDER

15. Any person who is affected by the preservation order may on good cause shown, apply for the reconsideration thereof.
16. Such application shall be set down:
 - 16.1. in instances where the person is able to justify the application on grounds of urgency, upon 3 days' notice (or such shorter period as the court may determine on good cause shown), and
 - 16.2. in other instances, upon at least 7 days' notice to the applicant.
17. Such an application must be delivered within 14 days after the person applying for reconsideration becomes aware of the existence of the order, or within such further period, as the court may consider reasonable, bearing in mind the underlying objectives of Chapter 6 of the POCA.

BY ORDER OF COURT



THE REGISTRAR



M S Mbatha

Counsel for the Applicant:

Tel: 011 220 4189

ANNEXURE A

IN THE HIGH COURT OF SOUTH AFRICA
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The amount of **R3 000 000** together with interest thereon held in FNB account number 62047917713 in the name of Jacoba Magdalena Geldenhuis with ID number 5410130145085;

The amount of **R5 750 000** together with interest thereon held in Nedbank account number 1009637290 in the name of Murry Pierce Kilgour with ID number 5905195084087.

NOTICE IN TERMS OF SECTION 39 OF THE PREVENTION OF ORGANISED
CRIME ACT 121 OF 1998 (POCA)

This notice is addressed to: Classic Financial Services (One) (Pty) Ltd with registration number 2004/031624/07, Jacobus Stefanus Geldenhuis with ID number 6003315080083, Jacoba Magdalena Geldenhuis with ID number 5410130145085, Murry Pierce Kilgour with ID number 5905195084087 and all other persons who have an interest in:

- 1.1 The amount of **R399 198.88** together with interest thereon held in ABSA account number 4097470165 held in the name of Classic Financial Services (One) (Pty) Ltd with registration number 2004/031624/07;
- 1.2 The amount of **R10 395 192.44** together with interest thereon held in Nedbank account number 1195277571 in the name of Classic Financial Services (One) (Pty) Ltd with registration number 2004/031624/07;
- 1.3 The amount of **R3 000 000** together with interest thereon held in First National Bank (**FNB**) account number 62047917713 in the name of Jacoba Magdalena Geldenhuis with ID number 5410130145085; and
- 1.4 The amount of **R5 750 000** together with interest thereon held in Nedbank account number 1009637290 in the name of Murry Pierce Kilgour with ID number 5905195084087
(the property).

Take notice that:

- 2 The National Director of Public Prosecutions (**National Director**) has, in respect of the property, obtained a preservation of property order in terms of section 38(2) of the POCA (**the order**), a copy of which is obtainable from the State Attorney, Johannesburg;
- 3 If you have an interest in the property, you should understand that it is now at risk. You are advised to obtain legal advice on whether your interest can be protected and, if so, on how to protect it;

- 4 You are notified that the National Director will, within 90 days of publication of this notice, apply to the High Court under section 48 of the POCA for an order declaring the property forfeit to the state. The order will remain in force until the application for a forfeiture order is finalised, and until any forfeiture order that is made is satisfied;
- 5 If you intend to oppose the application for a forfeiture order, or you intend to apply for an order excluding your interest from a forfeiture order in respect of the property, you must enter an appearance in terms of the order. The requirements for such an appearance are set out in the order and are also dealt with in sections 39(3), (4) and (5) of the POCA. An appearance must comply with these requirements;
- 6 Your attention is specifically drawn to the 14-day time limit prescribed in section 39(4) for the entry of an appearance referred to in paragraph 4 above;
- 7 If you enter an appearance in terms of the order you will be entitled to be given 14 days' notice of the application by the applicant for a forfeiture order in respect of the property;
- 8 If you fail to enter an appearance in terms of the order or to comply with the above requirements, you will not be given notice of the application for a forfeiture order and you will not be entitled to appear at the hearing of the application. In such a case, the court may grant a default order forfeiting the property to the state under section 53 of the POCA;
- 9 You may, on good cause shown (including the non-availability of any other suitable remedy to protect your legitimate rights or interests), on 3 days' notice in urgent instances and at least 7 days' notice in other instances to the applicant, and within 8 days of becoming aware of the order, apply for a reconsideration of the order;
- 10 You are specifically advised that even if you intend to apply for reconsideration of the preservation order in this case, you must, in addition, comply with paragraphs 4 and 5 above if you intend to oppose the forfeiture application at a later date. Failure to do so can result in a forfeiture order being granted against the property by default and without further notice to you;

11 Whenever this order states that you must deliver or serve any notice, affidavit or other process document on the applicant, you must deliver or serve them on the applicant at the following address:

The State Attorney, Mr E Machethe
10th Floor, North State Building
99 Albertina Sisulu Street, Johannesburg
Private Bag X9
Johannesburg
2000
Tel: (011) 220 4121
Email: EMachethe@npa.gov.za
REF:

Any correspondence or other enquiries must also be directed to this address or contact number.

