



Att: Deputy Chief Justice Zondo
Care of Ms Brigitte Shabalala
Acting Secretary
Judicial Commission of Inquiry into Allegations of
State Capture, Corruption and Fraud in the Public
Sector including Organs of State
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Your Ref:
Our Ref: Mr ET Mabuza
Date: Monday, September 28, 2020

Dear Chairperson DCJ Zondo,

Request for the Chairperson's recusal

1. We act on behalf our client, former President Zuma ("**President Zuma**"), from whom we have instructions to address you on the issues relating to allegations made against him during your widely publicized press conference of 21 September 2020. This also follows two other media briefings in 2019 at which the Chairperson deemed it appropriate to address President Zuma through the media.
2. At the outset, we note that this special focus and targeting of President Zuma has been the hallmark of this Commission's approach since it commenced with its proceedings. As a result, President Zuma views the recent media briefing as a culmination of a series of events by which he was singled out and targeted by the Commission.
3. This media briefing took place without any indication from us that we would not accede to the Chairperson's directives setting the matter down for 9 October 2020 and 16-20 November 2020. It was an unnecessary and premature public rebuke

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which, in our respectful view, resides outside the realm of legal processes and judicial comity.

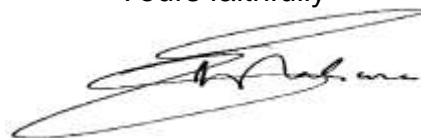
4. While we have also noted the statements made by the Chairperson in the same media briefing regarding his attitude towards President Zuma's legal team, we regard the entire public media exercise inappropriate and bereft of the requisite judicial decorum this process deserves. As a result, we do not deem it appropriate to respond to the Chairperson's statements directed at us as President Zuma's legal representatives.
5. Accordingly, we confine the contents of this letter to those issues in respect of which we have been instructed by President Zuma.
6. For the reasons to be fully set out in the application to be made soon, we are instructed to seek your recusal as Chairperson of the Commission on the ground that our client reasonably apprehends that you have already adopted a biased disposition towards him and cannot bring an impartial mind to the issues and evidence that relate to him. President Zuma's conclusion that the Chairperson is no longer capable of exercising an independent and impartial mind is fortified by what he views as the unwarranted public statements made by the Chairperson at the said media briefing.
7. President Zuma has always expressed his willingness to cooperate with the Commission. This is in spite of his reservations about the legality of the Commission and in particular, your suitability as Chairperson, given your personal relations with him. However, the conduct of the Chairperson towards him has left President Zuma with no choice but to take this step in order to defend his rights as a citizen. President Zuma believes that the Chairperson's conduct has stripped this Commission of its much required and vaunted legitimacy.
8. Viewed in the context of previous media statements, the conduct of the Chairperson and treatment of President Zuma by the Commission, the Chairperson's utterances

have left President Zuma with the distinct impression that the Chairperson seeks to target him for special treatment and public humiliation.

9. President Zuma believes that the source of the Chairperson's bias against him stems from the fact that President and the Chairperson have historical personal, family and professional relations that ought to have been publicly disclosed by the Chairperson before accepting his appointment.
10. Some of the other reasons to be set out in greater detail in the affidavit include the following:
 - 10.1. The Chairperson's election to reserve media conferences for President Zuma attests to the fact that he seeks to portray him as uncooperative and belligerent in the eyes of the public. No other witness has been subjected to such public rebuke through the media;
 - 10.2. It has become commonplace for the Commission to parade a particular narrative through witnesses and to treat certain witnesses, particularly those who implicate President Zuma, with deference. It is apparent to President Zuma that the Commission seeks to entrench a narrative that portrays him as guilty at all costs;
 - 10.3. President Zuma is of the firm view that the Chairperson's bias against him is a result of personal matters and strained relations that the Chairperson ought to have disclosed right at the beginning of the Inquiry;
 - 10.4. The Chairperson, in his engagements with witnesses testifying before him, has already prejudged the very issues he is tasked to investigate. In particular, he has already made prejudicial statements about President Zuma while addressing some witnesses who had made no reference to President Zuma;

- 10.5. The Chairperson refused to believe that President Zuma's failure to appear before the Commission early this year was due to his travel to seek medical treatment, again publicly portraying him as a liar; and
- 10.6. The Chairperson has joined the narrative that seeks to present President Zuma as the cause of all the corruption he is tasked to investigate.
11. We are working through the record of the Commission's proceedings in order to finalize the application for your recusal, which will be filed in due course. Therein, we will set out in greater detail each of the grounds on the basis of which our client reasonably apprehends that the Chairperson has lost all the requisite impartiality and is biased against him.
12. Until this application for your recusal is finally determined, President Zuma will take no further part in this Commission and the Chairperson is entitled to take any such step as he deems lawful and appropriate. We reiterate that President Zuma has questioned the lawfulness of the establishment of this Commission. He persists with this issue and reserves all his right in this regard.
13. In so far as the Chairperson interprets his own powers to be so absolute that no negotiation is necessary in order to agree appearance dates, we leave it in his capable hands to do as he deems appropriate. We are aware that the Chairperson has already indicated that with or without President Zuma's legal team, he will make his ruling. As a result, our views on the matter have been rendered irrelevant by the Chairperson's statements and he is entitled to take any step or ruling that he deems lawful and appropriate.
14. In the light of the above and the seriousness of the issues, President Zuma will file an affidavit setting out all the facts on the basis of which he seeks your recusal.

Yours faithfully



MABUZA ATTORNEYS