

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG LOCAL DIVISION, JOHANNESBURG**

**Case No:**

In the matter of:

**THE STATE**

Plaintiff

and

**CYRIL MATAMELA RAMAPHOSA**

Accused No 1

**DAVID THABETHE MABUZA**

Accused No 2

**YASMIN JESSIE DUARTE**

Accused No 3

**GWEDE SAMSON MANTASHE**

Accused No 4

**PAUL SHIPOKOSA MASHATILE**

Accused No 5

**THE AFRICAN NATIONAL CONGRESS**

Accused No 6

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**SUMMARY STATEMENT OF FACTS UNDERLYING THE CRIMINAL COMPLAINT**

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1. The facts from which the criminal charges (which are set out in the attached pro forma charge sheet attached hereto as Annexure "A") arise are briefly set out below and will be amplified in the course of the envisaged urgent investigation.
  - 1.1. The complainants are all employees of the 6<sup>th</sup> accused political party, having all been employed at different times before the relevant period.
  - 1.2. Prior to the relevant period, the complainants agreed with the 6<sup>th</sup> accused that various deductions would be made from their monthly salaries. A



The sample of three payslips advices of the 1<sup>st</sup> to 4<sup>th</sup> complainants is annexed hereto marked "B1" to "B3", for reference and to assist the envisaged investigation.

1.3. Throughout the relevant period and until recently (ie in or about June 2021):

- 1.3.1. the accused persons knowingly misrepresented to the complainants that the monies were being properly and lawfully distributed to the correct intended recipients and/or victims;
- 1.3.2. the complainants believed the truth of the representations, which turned out to be false;
- 1.3.3. the accused persons knew the representations to be false;
- 1.3.4. the accused nevertheless proceeded to make the representations knowing of the adverse consequences on the complainants and/or reckless as to such consequences.

- 2. The abovementioned criminal conduct of the accused persons continues until the present and into the foreseeable future.
- 3. The accused persons have confessed to the abovementioned conduct and pleaded with the complainants, among others, not to refer the matter to the police.
- 4. The complainants are however desirous of complying with their legal duties to report the said criminal conduct of the accused persons to the police and/or other relevant law enforcement and/or statutory authorities.

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5. The practices referred to are widespread and have taken place on a massive and nationwide scale over a substantially long period, amounting to hundreds of millions of rand, if not more.
6. The abovementioned are not victimless crimes. The victims run into hundreds or thousands of people over the years. Some of the victims have since passed on and thereby created further victims in the form of their family members and/or dependants who have had to incur unnecessary and unanticipated hospitalisation, funeral and other costs when they shockingly discovered at the time of their bereavement that their departed loved ones were not entitled to the benefits which the accused persons had falsely misrepresented to be due to them. A list of the victims who fall under this category is in the process of being compiled in order to assist them and/or the envisaged urgent investigation.
7. This complaint is lodged on behalf of the complainants listed in Annexure "C" hereto.
8. In view of the above, the accused persons must be charged with the offences set out in the pro forma charge sheet annexed hereto as Annexure "A".

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**AUTHORISED REPRESENTATIVE OF THE COMPLAINANTS**

at: **JOHANNESBURG CENTRAL POLICE STATION** on **13<sup>th</sup> September 2021** at ....h ....

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**ANNEXURE "A"****IN THE HIGH COURT OF SOUTH AFRICA  
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**PRO FORMA CHARGE SHEET**

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**PREAMBLE:**

**WHEREAS** the complainants listed in Annexure A attached hereto were employed by the accused at different times;

**WHEREAS** the Unemployment Insurance Act 63 of 2001, was enacted amongst others, to establish an Unemployment Insurance Fund; provide for the payment from the Fund of unemployment benefits to certain employees, and for the payment of illness, maternity benefits, adoption and dependant's benefits related to the unemployment of such employees;



**WHEREAS** the complainants were the employees of the accused as envisaged in section 1(1) of the Unemployment Insurance Act;

**WHEREAS** the accused were employers of the complainants as envisaged in terms of section 1(1) of the Unemployment Insurance Act;

**WHEREAS** the accused were obliged to deduct and did in fact deduct certain amounts as contributions from the salaries of the complainants for payment to the Fund and/or the Provident Fund, and/or Sizwe Medical Fund, and /or South African Revenue Services in terms of the Act for their benefit and/or their dependants;

**WHEREAS** the accused led complainants to believe that the amounts deducted from their salaries were contributions paid to the Insurance Fund and/or the Provident Fund, and/or Sizwe Medical Fund, and /or South African Revenue Services for their benefit;

**WHEREAS** the accused represented to the complainants that the amounts deducted from their salaries were in fact paid to the Insurance Fund, and/or the Provident Fund, and/or Sizwe Medical Fund, and /or South African Revenue Services as contributions envisaged in the Act;

**WHEREAS** the accused represented that the contributions made by the complainants are safe and that the benefits due to them in respect of those contributions will be paid to them upon termination of their services ;

**WHEREAS**, the accused well knew that the representations made were false and/or untrue; in that:

- (a) the amounts of monies deducted from the complainants were not paid into the Fund, and/or the Provident Fund, and/or Sizwe Medical Fund, and /or South African Revenue Services for their benefit or their dependants;



- (b) the amounts of monies deducted from the salaries of the complainants were unsafe and that complainants shall not receive benefits from their contributions;
- (c) the accused had utilised the contributions so deducted from complainant's salaries for their benefit and/or the benefit of the African National Congress.

**NOW THEREFORE** , the accused are guilty of the following criminal offences:

**COUNT 1: FRAUD**

9. **FRAUD**, in that during the relevant period, the accused persons individually and/or in common purpose, did wrongfully unlawfully and intentionally, and with intent to defraud made misrepresentations to the complainants and/or Unemployment Insurance Fund, and/or the Provident Fund, and/or Sizwe Medical Fund, and /or South African Revenue Services, that:

- 9.1. the sums of money deducted from the complainant's salaries were deducted for their own benefit and/or dependants;
- 9.2. the sums of money deducted from the complainant's salaries were paid into the Unemployment Fund, and/or the Provident Fund, and/or Sizwe Medical Fund, and/or the South African Revenue Services for their benefit and/or their dependants;
- 9.3. the accused were making contributions as an employer for the benefit of the complainants, to the Unemployment Fund, and/or the Provident Fund, and/or Sizwe Medical Fund, and/or the South African Revenue Services;
- 9.4. the complainants would receive benefits from the contributions made upon termination of their employment;



9.5. the monies deducted from their salaries were safe;

**WHEREAS** in truth and in fact the accused knew or ought to have known that such representations were false, and untrue, in that:

- (a) the amounts of monies deducted from the complainants were not paid into the Fund, and/or the Provident Fund, and/or ~~Sizwe Medical Fund~~ *Medshield Medical Scheme*, and /or South African Revenue Services for their benefit or their dependants;
- (b) the amounts of monies deducted from the salaries of the complaints were unsafe and that complainants shall not receive benefits from their contributions
- (c) the accused had utilized the contributions so deducted from complainant's salaries for their benefit and/or the benefit of the African National Congress.

10. To the prejudice an /or potential prejudice of the complainants, and/or the Unemployment Fund, and/or the Provident Fund, and/or Sizwe Medical Fund, and/or the South African Revenue Services.

## **COUNT 2: THEFT**

11. In that during the period January 2018 to August 2021 ("the relevant period"), the accused persons, acting individually and/or in common purpose, did wrongfully, unlawfully and intentional steal, appropriate money belonging to the complainants, and/or the Unemployment Insurance Fund ("UIF"), and/or the Provident Fund, and/or Sizwe Medical Aid, and/or the South African Revenue Services with intention to deprive them permanently of ownership and possession thereof.



**COUNT 3 : CORRUPTION**

**CORRUPTION**, in that during the relevant period, the accused persons unlawfully and intentionally, directly or indirectly, the accused persons accepted gratification in order to illegally fund the sixth accused (the ANC) in breach of trust, in violation of their legal duties and/or in the performance of their constitutional and contractual obligations.

**COUNTS 4, 5, 6 AND 7 : VARIOUS STATUTORY CRIMES**

12. The last four counts arise from alleged breaches of relevant applicable statutory provisions, read together with the summary of facts, including:

- 12.1. the Unemployment Insurance Act 63 of 2001;
- 12.2. the Pension Fund Act;
- 12.3. the Pay As You Earn regulations; and/or
- 12.4. the Tax Administration Act.