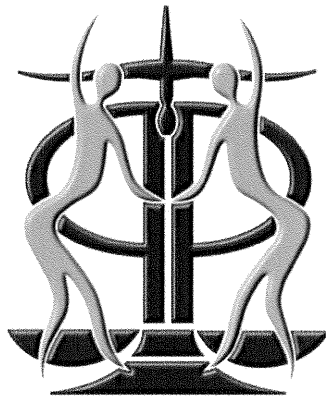


**REPORT OF THE PUBLIC PROTECTOR IN TERMS OF SECTION
182(1)(b) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH
AFRICA, 1996 AND SECTION 8(1) OF THE PUBLIC PROTECTOR ACT,
1994**



**PUBLIC PROTECTOR
SOUTH AFRICA**

REPORT NO. 18 OF 2010/2011

**REPORT ON AN INVESTIGATION INTO AN ALLEGATION OF
MALADMINISTRATION AND PREJUDICE BY THE COMMERCIAL CRIMES UNIT IN
PIETERMARITZBURG: KWAZULU-NATAL PROVINCE INVOLVING FAILURE TO
PROCESS DOCUMENTS OF A VICTIM OF CRIME**

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Executive Summary

- i. The Public Protector investigated a complaint by Mr S Mohlala in which he alleged, in the main, that the Commercial Crimes Unit: Pietermaritzburg (the Unit) had acted improperly by failing to act in accordance with the law regarding the investigation of a criminal complaint and thereby caused him prejudice.
- ii. Mr Mohlala had further alleged that Capt S I Phoswa of the Unit had falsely and consistently informed him that he had duly investigated his criminal complaint lodged against Limited Communications Solutions CC and that he had accordingly included his name onto the list of similar “victims” which the Unit had submitted to the Curator Bonis; namely PricewaterhouseCoopers, for the purpose of possible compensation in terms of the relevant provisions of the Prevention of Organised Crime Act 121 of 1998.
- iii. The following key findings were made from the investigation:
 - a) Capt Phoswa did inform Mr Mohlala and Hazyview Police Station, at which Mr Mohlala had lodged his complaint, that he had investigated Mr Mohlala’s complaint with a number of similar others lodged against Limited Communications Solutions CC, which information was incorrect, false and misleading;
 - b) Capt Phoswa did inform Mr Mohlala that he had duly included his name onto the victim list submitted to the Curator Bonis, which was incorrect and misleading;
 - c) Due to an inexplicable administrative failure on the part of the South African Police Services (SAPS), Mr Mohlala’s criminal complaint lodged at Hazyview

Police Station might not have reached the Unit and/or Capt Phoswa at all, despite the misleading and incorrect information to that effect conveyed by Capt Phoswa to both Mr Mohlala and Hazyview Police Station;

- d) Neither Capt Phoswa nor the Unit ever submitted Mr Mohlala's name to the Curator Bonis, contrary to the misleading information to that effect, conveyed by Capt Phoswa to him;
 - e) The Unit's conduct constitutes maladministration as envisaged in section 6(4) of the Public Protector Act, 1994;
 - f) Because of the improper conduct of, and maladministration by the SAPS, Mr Mohlala suffered prejudice in the form of financial loss, inconvenience and emotional trauma; and
 - g) Captain Phoswa's conduct was improper and deserves to be subjected to a formal investigation in terms of the Public Finance Management Act, 1999 and relevant Public Service Regulations.
- iv. The remedial action in terms of section 182(1)(c) is as follows:
- a) The Minister of Police must compensate Mr Mohlala financially as he had duly complied with all the requirements set out in the High Court Order, which granted certain powers to the *Curator Bonis* in respect of compensating the victims in the matter involving Limited Communications;
 - b) The amount of the compensation must be calculated at the original amount of R25500, 00, plus interest calculated at the prescribed rate of interest, from the date on which the money was owed to Mr Mohlala to the date on which payment

is made;

- c) The Complainant is to be paid within three(3) months of the submission of this report to the South African Police Services; and

- d) The Provincial Commissioner of the South African Police Services for KwaZulu-Natal Province conducts an internal investigation into the propriety and appropriateness of the conduct of Hazyview Police Station, the Unit and Capt Phoswa in the manner in which they handled Mr Mohlala's complaint; and provide the Public Protector with a report on the findings within a period of three (3) months from the date of this report.

REPORT ON AN INVESTIGATION INTO AN ALLEGATION OF MALADMINISTRATION AND PREJUDICE BY THE COMMERCIAL CRIMES UNIT IN PIETERMARITZBURG: KWAZULU-NATAL PROVINCE INVOLVING FAILURE TO PROCESS DOCUMENTS OF A VICTIM OF CRIME

1. INTRODUCTION

1.1 In terms of the provisions of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and section 8(1) of the Public Protector Act, 1994 (the Public Protector Act) this report is submitted to:

1.1.1 Mr S Mohlala (the Complainant);

1.1.2 The Minister of Police;

1.1.3 The Member of the Executive Council responsible for Transport, Community Safety and Liaison in the KwaZulu-Natal Provincial Government;

1.1.3 The National Commissioner of the South African Police Services; and

1.1.4 The National Commissioner of the South African Police Services for KwaZulu-Natal Province.

1.2 It relates to an investigation into an allegation of improper conduct and prejudice by the Commercial Crimes Unit, based in Pietermaritzburg, in the KwaZulu-Natal Province (the Unit), involving the Unit's failure to process the complainant's claim in accordance with the law.

2. BACKGROUND

- 2.1 From about 2004, the Unit investigated various criminal complaints lodged by a number of members of the public against Limited Communications Solutions CC (Limited Communications).
- 2.2 The complaints against Limited Communications were received at various police stations and referred to the Unit, whereupon they were all investigated by Capt S I Phoswa of the Unit under Durban Central CAS 2021/08/2004 (the Durban case).
- 2.3 The Complainant lodged his criminal complaint of fraud with Hazyview Police Station in respect of the amount of R25500, 00 that he had paid to Limited Communications for goods, viz. “public cellular phones” which the latter had promised to deliver to him, but did not.
- 2.4 Hazyview Police Station later informed the Complainant that his complaint had been referred to Capt Phoswa for further investigation and that he was at liberty to liaise with him directly thereafter.
- 2.5 The investigations of the Unit into Limited Communications had proceeded and the accused was found guilty and sentenced to imprisonment for a period of fifteen years.
- 2.6 On the other hand, the Durban and Coast Local Division of the High Court had granted a Preservation Order in respect of the assets and property of Limited Communications on 2 September 2004, with a subsequent Forfeiture Order granted on 17 December 2004, which authorised the *Curator Bonis* of PricewaterhouseCoopers to:

- 2.6.1 *“Taking possession of the property on behalf of the state;*
- 2.6.2 *Disposing of the property by sale or other means;*
- 2.6.3 *After deduction of the Curator Bonis fee and expenditure, to pay and distribute, on a pro rata basis, any amounts as may be declared forfeit to the State to the identifiable complainants under Durban Central CAS 2021/08/2004, who have submitted, to the Investigating Officer, sworn affidavits together with supporting documentary proof of payment made in respect of the acquisition of the goods and services from Limited Communications Solutions;*
- 2.6.4 *Deposit the balance of the remainder of any such amounts into the Criminal Asset Recovery Account; and*
- 2.6.5 *Perform any ancillary acts, which in the opinion of the Curator Bonis are reasonably necessary to effect the fulfilment of this order.”*

3. THE COMPLAINT

- 3.1 The Complainant lodged a complaint with the Public Protector in August 2006 alleging that:
- 3.1.1 The Commercial Crimes Unit had acted improperly, resulting in him being prejudiced in that it failed to submit his claim to a Curator Bonis and misled him to believe that this had been done;
- 3.1.2 Capt Phoswa had informed him in March 2006; in response to his telephonic enquiry, that the matter had been finalised in court and that his name (the Complainant’s) had been forwarded to the *Curator Bonis* with those of other

victims, for the purpose of compensation or re-imburement in terms of the High Court Order;

3.1.3 Capt Phoswa had allegedly further advised the Complainant to enquire with the *Curator Bonis* as he was not responsible for payment;

3.1.4 The Complainant emphasised to the Public Protector that his main frustration at the time of lodging his complaint was that he had accordingly contacted the *Curator Bonis* and the latter had clearly informed him that his name did not appear on the list of victims submitted by Capt Phoswa and that there was nothing further they could do to assist him; and

3.1.5 The Complainant further alleged that Capt Phoswa had insistently told him that his name had been included onto the list submitted to the *Curator Bonis* and that he had to stop contacting him.

4. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR TO INVESTIGATE THE COMPLAINT

4.1 The Public Protector was established in terms of Chapter 9 of the Constitution to strengthen the constitutional democracy of the Republic of South Africa.

4.2 Section 182 of the Constitution provides that the Public Protector has the power to:

4.2.1 Investigate any conduct in state affairs or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice;

4.2.2 Report on the investigation; and

4.2.3 Take the appropriate remedial action.

4.3 In terms of section 6(4) of the Public Protector Act, the Public Protector is competent to investigate, on his or her own initiative or on receipt of a complaint, any alleged maladministration in connection with the affairs of government at any level and any alleged improper conduct by a person performing a public function.

4.4 The complaint of improper conduct and prejudice by the Unit falls within the powers and jurisdiction of the Public Protector.

5. THE INVESTIGATION

5.1 The investigation was conducted in terms of sections 6 and 7 of the Public Protector Act and comprised:

5.1.1 An assessment of the complaint;

5.1.2 Correspondence with the Unit and Hazyview Police Station;

5.1.3 Meeting with the Unit and its Legal Services Department;

5.1.4 Examining the contents of the case docket in the Durban case;

5.1.5 Obtaining and examining the contents of the relevant parts of the Hazyview Police Station docket relevant to the Complainant's complaint;

5.1.6 Obtaining and examining the computer print-outs from the SAPS Crime Administration System on the movement of the Complainant's docket within SAPS;

- 5.1.7 A study of all the relevant documentation obtained during the investigation; and
- 5.1.8 Consideration and application of the relevant provisions of the South African Police Services Act, 1995 (the SAPS Act) and the Promotion of Administrative Justice Act, 2000 (the PAJA).

6. THE LEGAL FRAMEWORK

6.1 The Constitution

6.1.1 Section 195(1) provides that:

"Public administration must be governed by the democratic values and principles enshrined in the Constitution, including, amongst others, the principle that it must be accountable and that transparency must be fostered by providing the public with timely, accessible and accurate information".

6.1.2 Section 195(2) provides that:

"The governing principles of public administration, including those mentioned above, apply to, amongst others, all organs of state".

6.1.3 Section 205 provides for the establishment of the national police service with the prevention, combating and investigation of crime; and upholding and enforcing the law as its objects, amongst others.

6.1.4 Section 206(3) provides that each province, in terms of the structural arrangement of the national police service; is entitled to, amongst other things, monitor police conduct, oversee the effectiveness and efficiency of the police

service; including receiving reports on the police service and to promote good relations between the police and the community;

- 6.1.5 In order to perform the functions provided for in section 206(3) of the Constitution as stated above, a province may investigate or appoint a commission of inquiry into any complaints of police inefficiency or a breakdown in relations between the police and any community and must make recommendations to the Cabinet member responsible for policing.
- 6.1.6 Section 33(1) of the Constitution guarantees everyone the right to administrative action that is lawful, reasonable and procedurally fair. National legislation has been promulgated in the form of the PAJA. The act defines administrative action as any decision taken, or any failure to take a decision.
- 6.2 The Preamble to the SAPS Act recognises a need to provide a national police service to:
- 6.2.1 *“Ensure the safety and security of all persons and property in the national territory;*
- 6.2.2 *Uphold and safeguard the fundamental rights of every person as guaranteed by Chapter 2 of the Constitution, i.e. the Bill of Rights;*
- 6.2.3 *Ensure co-operation between the Service and the communities it serves in the combating of crime;*
- 6.2.4 *Reflect respect for victims of crime and an understanding of their needs; and*
- 6.2.5 *Ensure effective civilian supervision over the Service.”*

6.3 Section 13(3)(a) of the SAPS Act provides that:

“A member of SAPS who is obliged to perform an official duty, shall, with regard to his or her powers, duties and functions, perform such duty in a manner that is reasonable in the circumstances”.

7. ANALYSIS OF THE APPLICABLE LEGAL PRESCRIPTS AND THE EVIDENCE OBTAINED DURING THE INVESTIGATION

7.1 The investigation began with the Public Protector bringing the Complainant's allegations to the attention of the Head of the Unit, for his comments and a response thereto. In particular, the Head of the Unit was requested to indicate specifically whether or not the Complainant's complaint had been investigated under the Durban case and his name included onto the victim list submitted to the *Curator Bonis*.

7.2 In its written response dated 27 September 2006 and signed by its Branch Commander Supt J M Olivier, the Unit responded to the Complainant's allegations by stating the following, in the main:

7.2.1 That it had investigated the Complainant's complaint as part of the Durban case and that the investigating officer was Capt Phoswa;

7.2.2 That the Complainant's name had been included on the list of victims which was submitted to the *Curator Bonis*;

7.2.3 That the Complainant had indeed contacted Capt Phoswa and the latter had explained to him that payment was being handled by the *Curator Bonis* and that he (Capt Phoswa) was only dealing with the criminal aspect of the case;

- 7.2.4 That the Complainant had at some stage acted in a rude manner, saying that Capt Phoswa had stolen his money and further insulted him. Significantly, the Unit further stated that it was at this point that Capt Phoswa had told the Complainant to stop contacting him;
- 7.2.5 That there were many complainant victims under the Durban case and the Complainant was the only one who was dissatisfied with the way in which the matter was being dealt with; and
- 7.2.6 The Unit had mentioned in its response that it had attached a copy of the victim list that it forwarded to the *Curator Bonis* for the attention of the Public Protector, also including the Complainant's name, but no list had been attached to its correspondence.
- 7.3 Accordingly, the Public Protector informed the Unit that it had not attached the copy of the list it had submitted to the *Curator Bonis*. The Unit duly submitted a copy of the second list of victims but the Complainant's name did not appear on that list.
- 7.4 At this stage, it was decided that a formal investigation be conducted in order to establish what had transpired regarding the Complainant's complaint lodged at Hazyview Police Station.
- 7.5 When the Public Protector requested the Unit to verify the correctness of its initial response, and as the Complainant's name could not be found on the copy of the list, the Unit in turn retracted it, per a letter dated 23 October 2006 and signed by Capt Phoswa. Further, the Unit stated that its search for the docket on Complainant's complaint within the SAPS had revealed the following:
- 7.5.1 That Hazyview Police Station had in fact transferred the docket to

Pietermaritzburg Central Police Station, where it had been received on 25 October 2004, and returned to Hazyview Police Station on the same date, if not within a few days later. Further, the search revealed that it had been received back at Hazyview Police Station on 25 November 2004 and closed.

- 7.6 The Public Protector perused the computer print-outs from the SAPS Crime Administration System, which confirmed the Unit's later response and statement that the docket on the Complainant's complaint might have never reached the Unit.
- 7.7 The Public Protector requested Hazyview Police Station to provide its comments on the matter and, in particular, on what had transpired during its endeavours to transfer the Complainant's complaint to the Unit. Hazyview Police Station provided the Public Protector with copies of the relevant sections of the original docket.
- 7.8 An examination of the copies of the docket received from Hazyview Police Station revealed the following:
- 7.8.1 That, as per docket entries made by D/Inspector Mhlaba who was the Investigating Officer at Hazyview Police Station, he had telephoned Capt Phoswa on 5 October 2004 regarding the transfer of the docket to the Unit, and Capt Phoswa had advised him to post the original of the Complainant's statement of complaint to him.
- 7.8.2 Further, the same docket entry records Capt Phoswa as having mentioned the fact that he was investigating several cases against the same suspect, i.e. Limited Communications, even stating the relevant case number in respect of the Durban case;

- 7.8.3 D/Inspector Mhlaba made a further entry in the docket on 8 October 2004, stating that he was posting the original of the Complainant's statement of complaint to SAPS Pietermaritzburg, P/Bag X9031, PIETERMARITZBURG, 3200. Notably, this is the same postal address that the Unit has been using in its correspondence with the Public Protector during this investigation;
- 7.8.4 D/Inspector Mhlaba subsequent had several telephonic conversations with Capt Phoswa regarding the transfer of the docket to the Unit until he (Capt Phoswa) had reported that he had duly received and made copies of the original statement of the Complainant and that Hazyview Police Station could close its original docket upon its return;
- 7.8.5 It was based on the above-mentioned telephonic conversations between D/Inspector Mhlaba and Capt Phoswa, amongst other things; that the former had also subsequently informed the Complainant that his complaint was being investigated by Capt Phoswa under the Durban case.
- 7.8.6 From an analysis of the above-mentioned evidence, it is clear that Capt Phoswa did inform both Hazyview Police Station and the Complainant that the latter's criminal complaint was being investigated by him and that he had included the Complainant's name onto the victim list submitted to the *Curator Bonis*. It must also be noted that this was the very same response that the Unit had initially provided to the Public Protector in response to its preliminary investigations.
- 7.8.7 It is clear that the conduct of the Unit and Capt Phoswa displayed disregard for their legal obligations to act in a reasonable and proper manner in responding to enquiries, in particular, those made by the Complainant and Hazyview Police Station regarding the correct status of the matter.
- 7.8.8 Further, the Complainant should have had no reason at all to doubt the

correctness of the feedback that he had duly sought and received from both Hazyview Police Station and Capt Phoswa.

- 7.8.9 Considering the applicable legal framework (as referred to in Paragraph 4 of this report) in the above-mentioned circumstances, it must be emphasised that all Capt Phoswa was legally obliged to do upon receipt of the Complainant's enquiries on the status of his complaint, was to verify the correctness of his investigation records, as well as the names on the list of victims submitted to the *Curator Bonis*; and accordingly provide the Complainant with correct information.
- 7.8.10 Further, the Complainant had a clear constitutional right, in the circumstances, to be provided with accurate information expeditiously, taking much cognisance of his need for redress like the other victims involved. Also, it is clear that he had met all the requirements as the other victims in that he had lodged a criminal complaint with SAPS and duly provided proof of his payment of an amount of R25500, 00 to Limited Communications in respect of the services and goods, which he never received.
- 7.8.11 The conduct of Capt Phoswa and the Unit in responding to the enquiries made by the Complainant and D/Inspector Mhlaba raises questions regarding the realisation and appreciation of government departments and public officials of their legal obligations to the public and the nation in general.
- 7.8.12 It seems inexplicable that Capt Phoswa and the Unit found it reasonable and proper on their part to respond to the Complainant's enquiries in the manner that they did without, at the very least, verifying if his name was on the victim list. Equally inexplicable is the Unit's response to the Public Protector that Complainant's name was included on the list, yet this was never the case. On the other hand, the Unit had purported to forward such a list to the Public Protector, clearly without even looking at the list it intended to provide.

7.8.13 It is therefore concluded, at this stage, that Capt Phoswa and the Unit conducted themselves in a manner that does not reflect respect to the victims of crime and their needs. Further, their conduct, in particular, that of Capt Phoswa constitutes a breach of the provisions of Section 13 of the SAPS Act, which require members of SAPS to perform their official duties in a manner that is reasonable in the circumstances.

7.8.14 Due to the inconsistencies of Capt Phoswa and the Unit's response in this matter in general, it cannot be concluded that indeed the Complainant's complaint reached the Unit at all. Suffice to conclude that indeed the Complainant would have received similar treatment as the other victims if not for the incompetence and poor services rendered by SAPS to him.

8. THE REQUIREMENTS OF SECTION 7(9) OF THE PUBLIC PROTECTOR ACT, 1994

8.1 On 10 November 2008, the Public Protector informed Capt Phoswa in writing; that an adverse findings pertaining to his conduct could result from the investigation of this complaint. Further, his attention was drawn to the specific negative findings that could pertain to him and he was afforded an opportunity to respond thereto, if he so wished. In response, Capt Phoswa informed the Public Protector that he had duly received its correspondence dated 10 November 2008 and that the Unit would respond to it.

8.2 The Public Protector also addressed similar correspondence to the Office of the then Lieutenant General of the SAPS in KwaZulu-Natal Province, informing it of the possible negative findings that could result from this investigation and affording them an opportunity to comment on and/or respond thereto.

affording them an opportunity to comment on and/or respond thereto.

- 8.3 The Unit responded to the correspondence from the Public Protector dated 10 November 2008 by stating the following:
- 8.3.1 Capt Phoswa never received the docket on the Complainant's criminal complaint lodged with Hazyview Police Station. It further explained that this information was obtained from the SAPS Crime Administration System;
- 8.3.2 The Complainant had failed to submit proof of his payment to Limited Communications when requested to do so by Capt Phoswa during their telephonic contacts;
- 8.3.3 Some documents in the police docket on the Durban Case had been lost when copies of the docket contents were made for the accused, whilst it (the docket) was in the Public Prosecutor's possession;
- 8.3.4 Capt Phoswa submitted a preliminary list of victims to the *Curator Bonis* on 22 December 2005 upon the insistence of the latter, wherein Capt Phoswa had indicated that the list was not final;
- 8.3.5 Capt Phoswa submitted a second list of victims to the *Curator Bonis* on 5 January 2006, which list was rejected by the latter on the basis that the court had already authorised payments only to the persons appearing on the first list.
- 8.3.6 Mr Mohlala's name was only on the record list as he did not submit proof of his payment to Capt Phoswa; and
- 8.3.7 The Complainant did not suffer prejudice by his name not being included onto the victim list on the basis that even if his name had been put onto the second

- 8.3.8 The Office of the then Lieutenant General of the SAPS in KwaZulu-Natal Province responded by confirming what the Unit had already stated to the Public Protector; and indicating that that was the response it had received from the Unit.
- 8.4. The response from the Unit and the Lieutenant General in the SAPS: KwaZulu Natal was considered and the following observations were made:
- 8.4.1 Upon being informed of the allegation by Capt Phoswa and the Unit that he had failed to submit proof of his payment to Limited Communications, the Complainant vehemently denied its correctness. Further, this explanation by Capt Phoswa and the Unit cannot and should not be accepted as it is entirely inconsistent with their very own earlier responses to this complaint;
- 8.4.2 It must be highlighted that it is common cause that the Complainant did lodge his complaint with Hazyview Police Station in July 2004 (i.e. Hazyview Cas 69/07/2004), which Hazyview Police Station sent to Capt Phoswa of the Unit in October 2004, after a telephonic conversation between him and the Hazyview Police Station Investigating Officer D/Inspector Mhlaba regarding same;
- 8.4.3 It is clear that the Complainant had done all that he was supposed to do in terms of lodging his complaint with the SAPS and had made the necessary follow-up enquiries, which were responded to, even though incorrectly so.
- 8.4.4 Once the Complainant had lodged his complaint with the SAPS and made the necessary enquiries, there was nothing further he could do to control its outcome and the legal duty was upon the SAPS to handle it properly and in terms of the applicable legal prescripts.

- 8.4.5 The first list of the victims was submitted to the *Curator Bonis* on 22 December 2005, which was a period of more than a year from the date on which the Complainant had reported his matter to the SAPS, through Hazyview Police Station, in July 2004. Had the SAPS handled the Complainant's complaint correctly, it would have had sufficient time to apply its mind to it and ensure that he submitted all outstanding information, if any, long before 22 December 2005.
- 8.4.6 It is therefore concluded that the response of the Unit on pertinent issues in this matter cannot be accepted.

9. KEY FINDINGS

- 9.1 From the investigation, the following key findings were made:
- 9.1.1 Capt Phoswa did inform Mr Mohlala and Hazyview Police Station, at which Mr Mohlala had lodged his complaint, that he had investigated Mr Mohlala's complaint with a number of similar others lodged against Limited Communications Solutions CC, which information was incorrect, false and misleading;
- 9.1.2 Capt Phoswa did inform Mr Mohlala that he had duly included his name onto the victim list submitted to the Curator Bonis, which was incorrect and misleading.
- 9.1.3 Due to an inexplicable administrative failure on the part of the South African Police Services, Mr Mohlala's criminal complaint lodged at Hazyview Police Station might not have reached the Unit, despite the misleading and incorrect information to that effect conveyed by Capt Phoswa to both Mr Mohlala and Hazyview Police Station;

-
- 9.1.4 The Unit's conduct constitutes maladministration as envisaged in section 6 of the Public Protector Act;
- 9.1.5 Because of the improper conduct of, and maladministration by the SAPS, the Complainant suffered prejudice in the form of financial loss, inconvenience and emotional trauma; and
- 9.1.6 Captain Phoswa's conduct was improper and deserves to be subjected to a formal investigation in terms of the Public Finance Management Act, 1999 and the relevant Public Service Regulations.

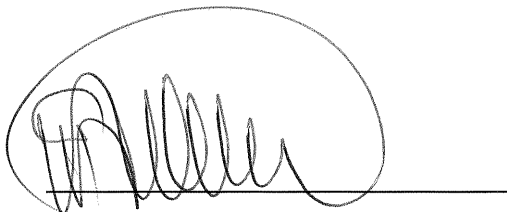
10. REMEDIAL ACTION IN TERMS OF SECTION 182(1)(c) OF THE CONSTITUTION

- 10.1 The Minister of Police must compensate the Complainant financially as he had duly complied with all the requirements set out in the High Court Order, which granted certain powers to the Curator Bonis in respect of compensating the victims in the matter involving Limited Communications;
- 10.2 The amount of the compensation must be calculated at the original amount of R25 500, 00 plus, interest calculated at the prescribed rate of interest from the date on which the money was owed to the Complainant to the date on which payment is made;
- 10.3 The Complainant is to be paid within three months of the submission of this report to the South African Police Services; and
- 10.4 The Provincial Commissioner of the SAPS for the KwaZulu-Natal Province must conduct an internal investigation into the propriety and appropriateness of the conduct of Hazyview Police Station, the Unit and Capt Phoswa in the manner in

which they handled the Complainant's complaint.

11. MONITORING

- 11.1 The Public Protector will monitor the implementation of these recommendations on a monthly basis.
- 11.2 A report from the National Commissioner of the SAPS, indicating how the finding in this report will be dealt with is requested by 15 August 2010.
- 11.3 A final report on action taken in response to this report is requested by 31 October 2010.



ADV T N MADONSELA

**PUBLIC PROTECTOR OF THE
REPUBLIC OF SOUTH AFRICA**

DATE: 26/07/2010

Assisted by: Adv M M Nkosi, Provincial Representative, KwaZulu Natal Office
RBM Mthembu, Senior Investigator, KwaZulu Natal Office

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