

**CLOSING 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**

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**INVESTIGATION INTO ALLEGATIONS OF IMPROPER CONDUCT AND  
MALADMINISTRATION BY POSTBANK RELATING TO THE DISTRIBUTION  
NETWORK FOR THE SPECIAL COVID-19 SOCIAL RELIEF DISTRESS GRANTS**

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## LIST OF ACRONYMS

Constitution	The Constitution of the Republic of South Africa, 1996
LBD	Limited Bidding Document
Minister Ndabeni-Abrahams	Former Minister of Small Business Development, Ms Stella Ndabeni-Abrahams
MSA	Master Service Agreement
Mr Mogajane	Former Director-General of the Department of National Treasury, Mr Dondo Mogajane
OCPO	Office of the Chief Procurement Officer
Public Protector Act	Public Protector Act 23, 1994
Postbank	South African Postbank (SOC) Ltd
SAPO	South African Post Office
SRD	Social Relief of Distress
SASSA	South African Social Security Agency

## 1. INTRODUCTION

- 1.1. This is a closing report of the Public Protector in terms 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 23 of 1994 (the Public Protector Act) and Rule 40(b) of the *Rules Relating to Investigations by the Public Protector and Matters Incidental thereto, 2018*, as amended, (Public Protector Rules) as promulgated under section 7(11) of the Public Protector Act.
- 1.2. The investigation relates to allegations of improper conduct and maladministration by the South African Postbank (Postbank), relating to the distribution network for the Special Covid-19 social relief distress (SRD) grants.
- 1.3. The closing report is submitted in terms of section 8(3) of the Public Protector Act to the following persons to inform them of the outcome of the investigation:
  - 1.3.1 The former Minister of Communications and Digital Technologies, Ms Ndabeni-Abrahams;
  - 1.3.2 The Chairperson of the Board of Postbank, Mr Thabile Wonci;
  - 1.3.3 The Interim Chief Executive Officer of Postbank, Mr Lucas Ndala;
  - 1.3.4 The former Group Chief Executive Officer of Postbank, Mr Hannes van der Merwe;
  - 1.3.5 The former Chairperson of the Board of Postbank, Mr Darwin Zinzile Nkonki;
  - 1.3.6 The former Chairperson of the Board of Postbank, Ms Noluphumzo Noxaka;
  - 1.3.7 The Acting Chief Commercial Officer of Postbank, Mr Thabang Lengane;
  - 1.3.8 The Head of Procurement of Postbank, Ms Nomathemba Ngqalamba;
  - 1.3.9 The Chairperson of the Board of SAPO, Mr Sipho Majombozi;
  - 1.3.10 The Chief Executive Officer of SAPO, Ms Nomkhita Mona;
  - 1.3.11 The former Chairperson of the Board of SAPO, Ms Colleen Makhubele;
  - 1.3.12 The Chief Executive Officer of SASSA, Ms Busisiwe Memela-Khambula; and
  - 1.3.13 The Chief Executive Officer of Black Mount (Pty) Ltd, Mr Thato Abrahams.

## 2. THE COMPLAINT

- 2.1 The Public Protector conducted an own initiative investigation emanating from a media publication in the Independent Online (IOL) on 27 August 2020, titled “*Minister Stella Ndabeni-Abraham’s husband in Covid grant saga*”<sup>1</sup>.
- 2.2 The media article reported, *inter alia*, the following:
- 2.2.1 That Mr Thato Abrahams, the businessman and husband of the former Minister of Communications and Digital Technologies and currently the Minister of Small Business Development, Ms Ndabeni-Abrahams, is alleged to have played a vital behind-the-scenes role between Blue Label Telecoms, the Postbank and a former SAPO Executive, to benefit financially from the distribution of the three hundred and fifty rand (R350,00) Covid-19 SRD grants;
- 2.2.2 That a letter, on a SAPO letterhead, was sent to the National Treasury on 01 July 2020, requesting emergency procurement funds for a proposed partnership with Blue Label Telecoms to disburse the special Covid-19 social distress grant;
- 2.2.3 That a Postbank official who wrote the letter to the National Treasury, was instructed to do so by SAPO “*head honchos*” and that the Postbank subsequently withdrew the letter to the National Treasury;
- 2.2.4 That the letter was drafted without the approval of the SAPO Board, which distributes the funds. The letter was sent to the National Treasury as “*an attempt to hoodwink the National Treasury to loot the Covid-19 relief funds*”;

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<sup>1</sup> *Minister Stella Ndabeni-Abraham’s husband in Covid grant saga*, IOL, 27 August 2020, accessed on 08 December 2022

- 2.2.5 That SAPO opened a criminal case of fraud with the South African Police Service (SAPS), with regard to the letter sent to the National Treasury on the SAPO letterhead;
- 2.2.6 That Blue Label Telecoms had *“built the solution at its own expense and there was no contract in place to recover the costs incurred”*;
- 2.2.7 That Mr Thato Abrahams, together with Mr Bonolo Ramokhele, a former SAPO Board member, are alleged to have been involved in the crafting of the letter, to secure the partnership between Blue Label Telecoms and Postbank;
- 2.2.8 That Mr Ramokhele was apparently instructed by Minister Ndabeni-Abrahams to resign from the SAPO Board because of his business interests with her husband;
- 2.2.9 That Minister Ndabeni-Abrahams has been *“central in fueling the tension between Postbank and the Post Office through her husband’s (alleged) interference and interests in trying to dip into the lucrative Sassa grants pie”*; and
- 2.2.10 In a joint media statement issued by Postbank and Blue Label Telecoms, dated 29 October 2020, titled *“Postbank and Blue Label deny media claims of a Covid-19 grants deal”* it is stated that:

*“Postbank and Blue Label Technologies Limited have denied the incorrect media claims of a deal between the two entities for the distribution of the Covid-19 Social Relief of Distress (SRD) grants payments.*

*Both companies have categorically stated that there is no deal in place between them in relation to the Covid-19 SRD grants payments services. All media reports to the contrary are false.*

*“The media reports of a social grants payments deal between Postbank and Blue Label are inaccurate, and the persistence of these news stories is deliberately misleading. Since the inception of the Covid-19 SRD grants services, the payments have been processed solely by the Post Office and Postbank, using existing in-house technology infrastructure, including Post Office branches countrywide,” says Hannes van der Merwe, Postbank Acting CEO.*

*Postbank, utilising permissible processes in an emergency, approached Blue Label with a view to collaborating on a payments distribution solution, as well as the possibility of gaining access to Blue Label’s nationwide retail merchant partner network to be deployed as additional collection points for SRD social grants disbursements. The proposal submitted to SASSA in this regard was not accepted, and the transaction did not materialise. “Blue Label was approached by Postbank to develop a solution for the distribution of additional Covid-19 relief, which Blue Label developed at its own cost. Blue Label was not awarded the contract,” says Mark Levy, Blue Label CEO.*

*Postbank and Blue Label do not currently have any contractual relationships.”*

### **3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR**

3.1 The Public Protector is an independent constitutional institution established in terms of section 181(1)(a) of the Constitution to support and strengthen constitutional democracy through investigating and redressing improper conduct in state affairs.

3.2 Section 182(1) of the Constitution provides that:

*“The Public Protector has the power, as regulated by national legislation: -*

- (a) to 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;*
- (b) to report on that conduct; and*
- (c) to take appropriate remedial action”.*

- 3.3 Section 182(2) directs that the Public Protector has the additional powers and functions prescribed by national legislation.
- 3.4 Section 6(5) of the Public Protector Act regulates the manner in which the powers conferred by section 182 of the Constitution may be exercised in respect of government at any level.
- 3.5 The Public Protector’s powers are regulated and amplified by the Public Protector Act which states, among others, that the Public Protector has the power to investigate and redress maladministration and related improprieties in the conduct of state affairs. The Public Protector is also bestowed with power to resolve disputes through conciliation, mediation, negotiation or any other appropriate dispute resolution mechanism as well as subpoena persons and information from any person in the Republic for the purpose of an investigation.
- 3.6 The Postbank and SAPO are organs of state and their conduct amounts to conduct in state affairs, and as a result, the Public Protector is satisfied that the complaint falls within her competency to conduct an investigation as envisaged in section 182(1)(a) of the Constitution and section 6(5) of the Public Protector Act.

#### **4. ISSUE IDENTIFIED FOR INVESTIGATION**

- 4.1 Based on the analysis of the complaint and the allegations contained therein, the following issue was identified to inform and focus the investigation:



- 4.1.1 Whether there was improper conduct and maladministration by Postbank relating to the distribution of the special Covid-19 social distress grants, and if so, whether this amounts to improper conduct in terms of section 182(1)(a) of the Constitution and maladministration in terms of section 6(5)(a) of the Public Protector Act.

## **5. THE INVESTIGATION**

### **5.1 Methodology**

- 5.1.1 The investigation was conducted in terms of section 182 of the Constitution and sections 6 and 7 of the Public Protector Act.

- 5.1.2 The Public Protector Act confers the sole discretion to determine the format and procedure to be followed in conducting any investigation with due regard to the circumstances of each case.

### **5.2 Approach to the investigation**

- 5.2.1 The investigation was approached using an enquiry process that seeks to determine:
- a) What happened?
  - b) What should have happened?
  - c) Is there a discrepancy between what happened and what should have happened and does that deviation amount to maladministration or improper conduct?
  - d) In the event of maladministration or improper conduct what would it take to remedy the wrong?

- 5.2.2 The question regarding what happened is resolved through a factual enquiry relying on the evidence provided by the parties and independently sourced during the investigation. In this particular case, the factual enquiry principally focused on allegations of improper conduct and maladministration by Postbank in the distribution of network for the SRD grants.
- 5.2.3 The enquiry regarding what should have happened, focuses on the law or rules that regulate the standard that should have been met by Postbank and SAPO and/or its employees, as well as the to prevent maladministration and improper conduct.
- 5.2.4 The enquiry regarding the remedy or remedial action seeks to explore options for redressing the consequences of improper conduct or maladministration.

### **5.3 Key Sources of Information**

#### **5.3.1 Interviews conducted**

- 5.3.1.1 Meetings were held with Mr Thabang Lengane on 22 April 2022 and 07 November 2022 respectively; and
- 5.3.1.2 A meeting was held with Ms Nomathemba Ngqalamba on 22 April 2022;

#### **5.3.2 Correspondence sent and received**

- 5.3.2.1 A copy of the Master Services Agreement between SAPO and SASSA dated 24 June 2020;
- 5.3.2.2 A copy of the Postbank Special Board meeting minutes of 04 September 2020;
- 5.3.2.3 Letter written to Minister Ndabeni-Abrahams dated 15 February 2021;
- 5.3.2.4 Letter written to Mr van der Merwe dated 15 February 2021;
- 5.3.2.5 Letter written to Mr Nkonki dated 15 February 2021;
- 5.3.2.6 Letter written to Mr Mogajane dated 21 February 2021;

- 5.3.2.7 Correspondence received from Mr Nkonki dated 25 February 2021;
- 5.3.2.8 Correspondence received from Mr van der Merwe dated 25 February 2021;
- 5.3.2.9 Correspondence received from Minister Ndabeni-Abrahams dated 26 February 2021;
- 5.3.2.10 Correspondence received from Mr Mogajane dated 26 February 2021;
- 5.3.2.11 A copy of the SAPS withdrawal statement dated 23 February 2021 under case number 167/07/2020 by SAPO official;
- 5.3.2.12 Subpoena dated 11 April 2022 issued to Mr Lengane;
- 5.3.2.13 Subpoena dated 11 April 2022 issued to Ms Ngqalamba;
- 5.3.2.14 Subpoena dated 12 October 2022 issued to Ms Busisiwe Memela-Khambula, the Chief Executive Officer of SASSA (SASSA CEO);
- 5.3.2.15 Subpoena dated 12 October 2022 issued to Ms Colleen Makhubele; the former Chairperson of the Board of SAPO;
- 5.3.2.16 Subpoena dated 12 October 2022 issued to Ms Noluphumzo Noxaga, the former Chairperson of the Board of SAPO;
- 5.3.2.17 Subpoena dated 26 October 2022 issued to Mr Thato Abrahams;
- 5.3.2.18 A response to subpoena received from SASSA CEO, dated 20 October 2022;
- 5.3.2.19 A response to subpoena received from Ms Colleen Makhubele; the former Chairperson of the Board of SAPO dated 27 October 2022;
- 5.3.2.20 A response to subpoena received from Ms Noluphumzo Noxaga, the former Chairperson of the Board of Postbank dated 28 October 2022; and
- 5.3.2.21 A response to subpoena received from Mr Thato Abrahams dated 08 November 2022.

## **6. THE DETERMINATION OF THE ISSUES IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAW AND PRESCRIPTS:**

- 6.1 **Whether there was improper conduct and maladministration by Postbank relating to the distribution of the special Covid-19 social distress grants, and if so, whether this amounts to improper conduct in terms of section**

## **182(1)(a) of the Constitution and maladministration in terms of section 6(5)(a) of the Public Protector Act**

### *Common Cause Issues*

- 6.1.1 A monthly SRD grant in the amount of three hundred and fifty rand (R350,00) was introduced for people who were unemployed but not yet receiving any social grant or support from the Unemployment Insurance Fund.
- 6.1.2 On 24 June 2020 SASSA, represented by SASSA CEO, entered into a MSA with SAPO, represented by Acting Group Chief Executive Officer: Adv Ivumile Nongongo for the payment services of the special COVID-19 SRD grants for unemployed individuals. The objective of the MSA was to give effect to the President's announcement and the Directions issued under Government Notice No. R. 517 of 09 May 2020, in terms of the Regulations made under section 27(2) of the Disaster Management Act No 57 of 2002: Measures to prevent and combat the spread of COVID-19.
- 6.1.3 During September 2021, SASSA CEO, and SAPO Group Chief Executive Officer, Ms Nomkhita Mona (Ms Mona) signed a variation of MSA. Clause 8 of the MSA makes provision for SAPO's obligations through Postbank. Clause 8.20 provides that SAPO through Postbank would perform verification of beneficiaries by requesting proof of their identity, before activating the account and disbursing the special COVID -19 SRD R350 grant.
- 6.1.4 In terms of clause 8.21, SAPO through Postbank disbursed the special COVID -19 SRD grant to beneficiaries over the counter at SAPO branches. Clause 8.22 states that SAPO would disburse to beneficiaries the full R350.00 (three hundred and fifty rand). Furthermore, clause 8.23 provides that SAPO through

Postbank would share with SASSA on a monthly basis, a full reconciliation file of all paid and unpaid transactions, in respect of the special COVID -19 SRD grant starting from September 2021 to April 2022.

- 6.1.5 The acting Chief Commercial Officer of Postbank, Mr Thabang Lengane (Mr Lengane) wrote a letter dated 01 July 2020 on SAPO's letterhead, titled "*Re: Emergency Procurement for Covid19 grants*" to the National Treasury. According to the contents of the letter, Postbank requested the National Treasury to approve or guide if the Emergency Procurement process for the distribution of SRD grants was the correct procurement process to follow.

*Issue in dispute*

- 6.1.6 The issue for the Public Protector's determination is whether there was improper conduct and maladministration by Postbank relating to the procurement of service for the distribution of the SRD grants.

*Response from Mr Hannes van der Merwe*

- 6.1.7 The allegations were raised with the then acting Chief Executive Officer of Postbank, Mr van der Merwe (Mr Van Der Merwe) on 15 February 2021 and he responded on 25 February 2021.
- 6.1.8 Mr Van Der Merwe indicated that Postbank never contracted with Blue Label Telecoms and had no knowledge of the companies or entities that Blue Label Telecoms had dealings with. He attached a copy of the letter addressed to the National Treasury requesting for deviation from normal procurement processes, and stated that the intention of the Postbank on this project was clear and there was no secret, malice or fraud in the use of the SAPO letterhead.

- 6.1.9 He further indicated that it was a norm to correspond with the National Treasury using the SAPO letterhead on procurement related matters and there was nothing sinister or untoward in the conduct of Postbank and/or its employees. He stated that the SAPO officials in the Supply Chain Management department were copied in the letter to the National Treasury. He further stated that Mr Shumi Sontange, the SAPO Group Executive of Supply Chain Management and Mr Matthew Slabbert, the SAPO Manager of Supply Chain Governance, were informed of this matter.
- 6.1.10 He further submitted that the Postbank has since established limited Supply Chain Management capacity, however, it still relies on SAPO on related administrative functions and this will continue until such time that Postbank has its own fully fledged Supply Chain Management function as they have a service level agreement with SAPO. He indicated that the letter to the National Treasury made reference to the internal procurement process that was going to be followed in the event that the National Treasury approved the requested deviation. A document known as LBD was prepared in anticipation of the National Treasury support.
- 6.1.11 Mr Van Der Merwe also stated that SAPO took issue with Postbank's use of the letterhead, consequently Postbank issued a correction letter to National Treasury indicating that the SAPO letterhead was used in error. He also reported that a criminal case was opened by SAPO, but SAPO has confirmed that it was in the process of withdrawing the charge. He further stated that in the letter to the National Treasury they never requested for funding but merely requested for a deviation from normal procurement processes.
- 6.1.12 He indicated that the LBD document refers to the decision of the Executive Committee and details the motivation why Blue Label Telecoms was a preferred potential service provider and that Postbank understood that the solution was not developed at its special instance and/or request. In conclusion he stated that

Blue Label Telecoms already had the solution since their business already operates within the payments systems market and consequently, there were no costs that were incurred or could have been incurred by Blue Label Telecoms regarding the development of the solution for the Postbank because the solution already exists.

- 6.1.13 Mr van der Merwe provided the Investigation Team with a copy of the letter from Ms Basani Duiker (Ms Duiker): SCM Governance, Monitoring and Compliance dated 17 July 2020 in response to the Postbank's request for approval or guidance on emergency procurement in this project.
- 6.1.14 Ms Duiker submitted that according to the letter from the Postbank, it intended to partner with Blue Label Telecoms on a revenue share model, to provide virtual voucher money service for Covid-19 SRD grants for the unemployed beneficiaries as announced by the President. She further informed that it was unclear from the information they provided whether Postbank intended to procure the required services from Blue Label Telecoms on emergency, limited bidding or through a deviation process.
- 6.1.15 She further advised that the institutions that procure goods and/or services on emergency basis were previously not required to obtain approval of the National Treasury. She explained that emergency procurement is defined as serious and unexpected situation that poses immediate risk to health, life, property or environment which calls an urgency to action and there is no sufficient time to invite competitive bids.
- 6.1.16 She said that she also informed Postbank that LBD is another form of deviation from normal competitive bidding process, therefore institutions that procure goods and/or services through this method are required to obtain approval of the National Treasury in terms of the National Treasury Instruction 3 of 2016/2017: Preventing and Combating Abuse in the Supply Chain Management

and any other form of deviation from normal procurement process will only be allowed with prior approval of the National Treasury.

*Response from Mr Thabang Lengane*

- 6.1.17 A subpoena dated 11 April 2022 was issued to Mr Lengane to appear virtually before the Public Protector's authorised delegate on 22 April 2022. Mr Lengane was interviewed on 22 April 2022 and stated that on 01 July 2020, he addressed correspondence to Ms Basani Duiker of the OCPO. The correspondence was titled "*Emergency procurement for Covid 19 grant*" requesting the National Treasury to approve or guide if the Emergency Procurement Process was the correct process to follow in procuring the services of distributing the SRD grants.
- 6.1.18 When providing reason on how Blue Label Telecoms was identified, Mr Lengane submitted that he conducted a research and the following factors were used as assessment and criteria for choosing Blue Label Telecoms: research or footprint; wide merchant accessibility; digital products/ service; past experience; technology capability; costs effectiveness; financial inclusion; and quick go market implementation.
- 6.1.19 He further submitted that Blue Label Telecoms operates around the premise that any product or services that can be digitised can be distributed and paid through their footprints, and accordingly they focus specifically on entry level market and bottom of the pyramid. He also submitted that Blue Label Telecoms is an approved virtual management service network operator in South Africa and has a relationship with 6500 retail outlets, 34 financial institutions, 4600 petrol stations, 28 aggregators and 150 000 Spaza shops in the country.
- 6.1.20 In responding to the question whether the deviation was intended to result in a contract/ a once off purchase of goods/service, he submitted that the deviation



would result in contracting with preferred supplier for a period of “*twelve (12) months*” with a possibility for an extension.

- 6.1.21 On 07 November 2022, a follow up meeting was held with Mr Lengane at the Public Protector House, to clarify further on his previous submission. He reported further that during May 2020 the employment contract of Mr van der Merwe expired and whilst Postbank was awaiting a response from Minister Ndabeni-Abrahams regarding the contract extension, there was no one who was fully performing the functions of the CEO. According to Mr Lengane, a response from Minister Ndabeni-Abrahams regarding approval of the extension of Mr van der Merwe’s contract was only received two (2) weeks later. Mr Lengane reported that the position of the CEO was vacant for a period of two (2) weeks and he facilitated the SRD process and even presented same to the Postbank Board meeting.
- 6.1.22 He elaborated that upon the return of Mr van der Merwe there was a meeting wherein he provided an update report on the matter. He said that it was during this time that he was granted permission by Mr van der Merwe to correspond and write a letter to the National Treasury regarding the procurement of the SRD grants.
- 6.1.23 Mr Lengane further indicated that it was not the first time that he corresponded with the National Treasury. He said that he had done so previously in relation to a matter relating to the Statistics South Africa (Stats SA), wherein he co-signed a letter with SAPO Group Executive addressed to the National Treasury. He further explained that the distribution of the SRD grants service was a new development and it fell within his business unit and, as an end user of the service, he had to prepare the procurement documents, including the letter to the National Treasury to request advice on deviation.

- 6.1.24 According to Mr Lengane on 06 August 2020, the Postbank issued a retraction letter to the National Treasury as per Mr van der Merwe's directive. Ms Nomathemba Ngqalamba, as the Postbank Head of Procurement, co-signed the letter.
- 6.1.25 He reported that the project was abandoned by Postbank upon receipt of the National Treasury's response not to deviate from the normal procurement processes.

*Response from Ms Nomathemba Ngqalamba*

- 6.1.26 A subpoena dated 11 April 2022 was issued to Ms Ngqalamba to appear virtually before the Public Protector's authorised delegate on 22 April 2022. Ms Ngqalamba was interviewed on 22 April 2022 and stated that she was appointed as the Postbank Head of Procurement on 01 July 2020. She reported that when she joined the Postbank, it had no procurement unit, including procurement policies. She said that the Postbank is a division of the SAPO, however the two (2) entities separated in 2019. According to her, the SAPO continued to support Postbank in terms of its procurement related matters and process whilst the Postbank was establishing its own procurement unit. She further reported that she has been tasked with the responsibilities of the development of the SAPO Supply Chain Management unit and the procurement policies.
- 6.1.27 Ms Ngqalamba further indicated that although the first letter was issued before she joined Postbank, on 06 August 2020, she co-signed a retraction letter issued to the National Treasury on the basis that it was a norm in Postbank that officials within the Business Unit and Procurement unit co-signed any correspondence issued to the National Treasury.

*Response by Minister Ndabeni-Abrahams*

- 6.1.28 The allegations were raised with Minister Ndabeni-Abrahams on 15 February 2021. In response Minister Ndabeni-Abrahams, in a correspondence dated 26 February 2022, stated that these publications were speculative in nature, and contained false and misleading information.
- 6.1.29 Minister Ndabeni-Abrahams submitted that she was not aware of any involvement by Mr Thato Abrahams and Mr Ramokhele who allegedly drafted a letter to secure partnership between Blue Label Telecoms and Postbank. She said that she heard the rumour about Mr Ramokhele and her husband having a relationship and she does not know the extent of such relationship. She further stated that Mr Ramokhele resigned from the SAPO Board and in his resignation letter, he cited personal reasons which they respect and the Ministry did not pursue his resignation further.

*Response by Mr Mogajane*

- 6.1.30 The allegations were raised with the then Director-General of the National Treasury, Mr Dondo Mogajane (Mr Mogajane) on 21 February 2021. Mr Mogajane responded to the Public Protector on 26 February 2021 and submitted that the National Treasury has no knowledge of the allegations and it was not in possession of the correspondence that was drafted without the approval of the SAPO Board which was sent to the National Treasury as “an attempt to hoodwink the National Treasury to loot the Covid-19 relief funds”.
- 6.1.31 He also submitted that a search on the Basic Accounting System conducted by the Office of the Accounting General for the period 01 March 2020 to 18 February 2021, indicated that no payments were made to Blue Label Telecoms during the said period.

- 6.1.32 Mr Mogajane further submitted that the OCPO received a letter dated 01 July 2020 from the Postbank titled “*Emergency procurement for Covid 19 grant*” which stated, *inter alia*, that:
- “*Postbank wish to ask the National Treasury to approve or guide if the Emergency Procurement Process is the correct process to follow...*” He said that the OCPO understood this to be a request for advice on procurement.
- Response from SASSA CEO, Ms Busisiwe Memela -Khambula*
- 6.1.33 Ms Memela–Khambula responded to the subpoena issued against her dated 12 October 2022 to provide an explanation regarding her knowledge of the Postbank’s submission to SASSA, requesting the distribution of the R350 Covid-19 SRD grants. Ms Memela–Khambula indicated that SASSA received the correspondence from Mr Lengane and the document was titled ‘*The South African Postbank Soc Limited Technical Solution Proposal for Disbursement of Covid 19 Social Relief of Distress Grant.*’
- 6.1.34 According to Ms Memela–Khambula, she did not pursue the proposal on the ground that SASSA had an existing contract with SAPO in terms of the Master Service Agreement (MSA) to distribute the social grant on behalf of SASSA. She further explained that the banking services were provided through Postbank as a subcontractor to SAPO.
- 6.1.35 She indicated that the SRD grant was introduced during April 2020 subsequent to the declaration of national state of disaster and SASSA was tasked with the responsibility to pay the SRD grants. According to her, on 01 April 2019, Postbank ceased to be a division of SAPO, when it was incorporated as a separate entity.
- 6.1.36 Ms Memela–Khambula indicated that the separation highlighted the financial constraint and impacted negatively on SAPO’s ability to deliver in terms of the

MSA and the continuous unavailability of cash at SAPO branches during social grant pay days prompted SASSA, in consultation and by agreement with SAPO, to invoke clause 36 of the MSA for SAPO to cede and assign the MSA to the Postbank which is now the primary contracting party to the MSA.

*Response from Ms Noluphumzo Noxaka*

- 6.1.37 Ms Noxaka responded to the subpoena issued against her dated 12 October 2022 to provide an explanation regarding:
- 6.1.37.1 Her involvement and meetings held between SAPO Board and Postbank Board members regarding the distribution of the SRD grants;
  - 6.1.37.2 The Postbank Standard Operating Procedure used to partner with the Blue Label Telecoms company to distribute the SRD grants; and
  - 6.1.37.3 The role of Mr Lengane.
- 6.1.38 Ms Noxaka indicated that following the separation of the two (2) entities, Postbank continued with its resources capacitating drive, and while this process was in progress, reliance was placed on SAPO for several operational functions, such as the Supply Chain Management function. She explained that SAPO provided the services to Postbank for procurement administration and received payment for these services.
- 6.1.39 She further explained that the distribution and payment of the SRD grants posed several challenges when beneficiaries were not receiving their grants and such required alternative grant distribution mechanism. She confirmed that following the challenges by SAPO branches to disburse the SRD grants, SASSA then engaged Postbank to find alternative solutions and thus creating the opportunity for Postbank to provide solution for the distribution of the SRD grants.

6.1.40 She reported that a special Postbank Board meeting was held on 07 June 2020 to consider the proposal in relation to the distribution of the SRD grants. According to her, the voucher solution by Blue Label Telecoms was introduced to Postbank by the former Board member, Mr Edward Netshivhulana (Mr Netshivhulana), who informed her that the voucher system would be a solution to use for grant distribution. She said that he mentioned Blue Label Telecoms as the company that could provide the solution. Mr Netshivhulana is said to have indicated that he would communicate with Mr Lengane but Ms Noxaka said she advised that rather Mr van der Merwe be informed and asked to provide clarity on whether Postbank could consider the proposal of voucher solution. Ms Noxaka further elaborated as follows:

*“Subsequent to this on their own volition, Management engaged Blue Label Telecoms to get clarity and understanding of the solution, the pricing and how it could be integrated with Postbank SOC system. Management then interacted with SASSA regarding voucher solution and SASSA was not interested and that should have been the end of the matter. Hence my surprise when Mr Lengane presented this solution at the ad hoc Board meeting held on 07 June 2020 as Management had advised me on SASSA’s preferred option to open bank accounts for beneficiaries, and in my engagement with him when he requested a meeting of the Board was that when presenting the bank account solution, he should indicate the breakeven point for the project, given SAPO’s transfer pricing structure.*

*In the discussion that took on the Blue Label Telecoms Voucher option, it was also made clear that should a partnership be permissible within the legislative prescript, it would not be exclusive to Blue Label Telecoms, and Postbank SOC would enter into similar partnerships with any other company that provided a voucher system as the objective was to have a wide reach as possible for the convenience of beneficiaries.*

*Sometime in August 2020, the matter of the letter sent to NT on 01 July 2020, using a SAPO letter was brought to my attention. Although the content of the letter was problematic given the use of the SAPO letterhead and the fact that the Postbank SOC board did not approve a partnership/agreement with Blue Label Telecoms, the letter did not request emergency procurement funds.*

*This issue was discussed at a joint meeting with the SAPO Board (minutes can be obtained from the SAPO Company Secretary, Mr Dawood Dada). It was explained that while SAPO, an SCM administration service provider to Postbank SOC had in the past written letters to NT on behalf of Postbank SOC, the SCM Manager had advised that Postbank SOC could draft its own letter to the NT and Mr Lengane proceeded to draft the letter, which unfortunately used a SAPO letterhead. I understand that he shared a copy of this letter with the SCM Manager.*

*Indeed, SAPO did lay a charge of fraud with the Police in this regard, however, at this meeting, SAPO confirmed that the case would be withdrawn as they are satisfied that there was no malicious intent by Mr Lengane.*

*My understanding of Mr Lengane's role in relation to the Postbank SOC Supply Chain Management process was that he was a member of one of the Bid Committees. I do not know which of these committees he was a member of nor management discussions that may or may not have given him authority to correspond with NT about Postbank procurement matters."*

#### *Response from Ms Colleen Makhubele*

- 6.1.41 Ms Makhubele responded to the subpoena issued against her dated 12 October 2022 to provide an explanation regarding meetings held between SAPO Board and Postbank Board regarding the distribution of the SRD grants and to provide the nature of the resolution taken at the said meetings.

6.1.42 Ms Makhubele stated that her term as Chairperson of the SAPO Board came to an end on 07 August 2020. According to her, the SAPO Board was not involved in the decision taken either to conclude an agreement with SASSA or to seek deviation from the normal procurement processes when the agreement with SAPO and Blue Label Telecoms was discussed. She indicated that Postbank is entitled to enter into commercial transactions independent of the Post Office. She indicated that there was no basis for the usage of the letterhead of Post Office for a transaction which appears to be Postbank transaction.

*Response from Mr Thato Abrahams*

6.1.43 Mr Abrahams responded to the subpoena issued against him dated 26 October 2022 to provide an explanation regarding his relationship with Blue Label Telecoms, Black Mount (Pty) Ltd and Mr Ramokhele, particularly relating to the company's intended distribution of the SRD grants on behalf of the Postbank.

6.1.44 He stated that he does not have personal or business relationship with Blue Label Telecoms. He denied knowing Mr Lengane, including being involved in the drafting of the letter sent to the National Treasury by Mr Lengane. He stated that he knows Mr Ramokhele as the former Treasurer General of Black Business Council and that since he was Chairman of the South African Youth in Mining he had in most occasions sought advice from him pertaining to mining issues.

6.1.45 According to the evidence independently obtained by the Public Protector, the Blue Label Telecoms has three (3) active Directors and seven (7) non-executive Directors. On the list of both Directors and non-Directors, the names of Messrs. Abrahams and Ramokhele do not appear.



*Withdrawal of the criminal case against Mr Lengane*

- 6.1.46 Mr Dawood, the SAPO Company Secretary, submitted to the investigation team a copy of the withdrawal statement of criminal charges relating to the usage of SAPO letterhead by Mr Lengane. Upon perusal of the statement, it was noted that the said statement was deposed by SAPO General Manager, Security and Investigation Services, Mr Hendrik Daniel Marthinus Vos. According to the contents of the statement, it stated that he was mandated by the SAPO acting Group CEO, Ms Reneilwe Langa to withdraw a complaint under CAS 167/07/2020.
- 6.1.47 The genesis of the investigation is a media article which alleged that Mr Abrahams played a vital behind the scenes role between Blue Label Telecoms Postbank and SAPO executives to benefit financially from the distribution of the Covid-19 SRD Grants. This was disputed by Mr Abrahams who stated that he had no business or personal relationship with Blue Label Telecoms. Contrary to what was reported in the media, the Public Protector did not obtain any evidence that indicates that Mr Abrahams had any involvement in the relationship between Blue Label Telecoms and Postbank.
- 6.1.48 Furthermore, it was established that Postbank requested approval or guidance from National Treasury to appoint Blue Label Telecoms for the distribution of Covid-19 SRD Grants. Due to the limited information provided by Postbank, National Treasury elected to only provide guidance on the methods available to procure the required service. Postbank ultimately did not proceed with the procurement of Blue Label Telecoms for the required service.

*Application of the relevant legislation and prescripts*

**South African Post Office Limited Act No. 22 of 2011**

- 6.1.49 The South African Post Office SOC Limited was established as a company on 01 October 1991 in terms of the Companies Act, No. 61 of 1973. The State (Republic of South Africa), represented by the Minister of Communications and Postal Services, is the sole shareholder.
- 6.1.50 Following the repeal of the Companies Act No. 61 of 1973 and the enactment of the Companies Act No. 71 of 2008 (as amended), the SAPO was designated as a state-owned company (SOC) as per the South African Post Office Limited Act No. 22 of 2011, as amended. The SAPO is also a major state entity in terms of Schedule 2 of the PFMA No. 1 of 1999 (as amended).
- 6.1.51 The strategic mandate of SAPO includes the payment of social grants to the deserving and vulnerable grant recipients on behalf of government. The South African Postbank SOC Limited (Postbank) also depends on SAPO's branch network to deliver financial services to its customers. The SAPO's infrastructure is also critical for the delivery of government services as well as service delivery agency for private companies.

**Postbank Amendment Act 44 of 2013**

- 6.1.52 Postbank draws its mandate from the Postbank Amendment Act 44 of 2013, which is primarily the provision of accessible and affordable financial services, including responsible lending.
- 6.1.53 In 2019, the Department of Communications and Digital Technologies, announced the establishment of the South African Postbank Company, which was gazetted to take over the business of Postbank from the SAPO effective

from 1 April 2019. The Postbank was incorporated as a separate legal entity in terms of section 6 of SAPO Act. Furthermore, section 7 of Postbank Act provides that from 01 April 2019, anything done by or on behalf of the former Postbank (as a division of SAPO) must be regarded as having been done by Postbank. The Financial Matters Amendment Bill, adopted in early 2019 by Parliament, has paved the way for Postbank to get a banking license from South African Reserve Bank.

- 6.1.54 The Postbank has always been a subsidiary of the SAPO since its inception. The two (2) entities separated on 01 April 2019. Since then, the Postbank currently only offers transactional and savings account. In terms of the Postbank Amendment Act, there are plans to transition the Postbank into a fully service bank and this would allow the Postbank to entirely function as a separate entity from SAPO. Therefore, as highlighted by Mr van der Merwe, Ms Ngqalamba and Ms Noxaka, the Postbank relies on the SAPO in relation to supply chain management process while in the process of capacitating its own supply chain management unit since the separation of the two (2) entities.
- 6.1.55 The SAPO is one of the public entities referred to in the PFMA. The entity has, in compliance with the PFMA and its Regulations developed its supply chain management policy. Postbank which was originally the SAPO's subsidiary, has now been established as a bank separate for SAPO. However, due to operational challenges, Postbank has been using the SAPO operational process whilst in the process of developing its own, such as the procurement policies.
- 6.1.56 Mr Lengane indicated that the project was abandoned upon receipt of the National Treasury advice and confirmed that no payment was effected to Blue Label Technologies by Postbank or SAPO.

## Supply Chain Management Policy (SCM) August 2016

6.1.57 The objective of the policy was to ensure the efficient, effective and uniform procurement of all services and goods through rigorous procurement processes and effective management thereof. SAPO has developed its SCM Policy (SCM Policy) in compliance with National Treasury guidelines and other legislative and regulatory requirements including section 217 of the Constitution of the Republic of South Africa, 1996, PFMA, the National Small Enterprise Act 102 of 1996, Preferential Procurement Policy Framework Act 5 of 2000, Prevention and Combating of Corrupt Activities Act 12 of 2004.

6.1.58 Paragraph 7 of the SCM Policy sets out the general rules on delegation of authority and measures to be taken by Group Executive Officer or Accounting Authority or delegated authority to prevent abuse of the supply chain system deviation.

### *Conclusion*

6.1.59 Based on the evidence and information obtained, no evidence could be found showing that the Postbank contravened the applicable legal prescripts when it sought to procure the services of distribution of the SRD grants.

6.1.60 Furthermore, no evidence could be found that Mr Abrahams, influenced any employee of SAPO and Postbank or facilitated a behind the scene role between Blue Label Telecoms, Postbank and SAPO to benefit financially from the distribution of the SRD grants.

6.1.61 Based on the evidence obtained from the Postbank and SAPO, it is concluded that Mr Lengane, as the Postbank employee, was authorised, as the end user, to correspond with the National Treasury regarding the approval or guidance on deviation in procuring the services for the distribution of the SRD grants.

- 6.1.62 Furthermore, the Public Protector could not find any evidence that points towards irregular, fruitless and wasteful expenditure by SAPO or Postbank. The National Treasury also confirmed that there was no expenditure in relation to this project.
- 6.1.63 According to the information received from SAPO and Postbank, using the SAPO letterhead on procurement related matters was a norm and there was nothing *sinister or untoward* in the conduct of Postbank and/or its employees. SAPO officials in the Supply Chain Management department were copied in the letter to the National Treasury. Furthermore, the letter to the National Treasury made reference to the internal procurement process that was going to be followed in the event that National Treasury approved the requested deviation. The LBD was prepared in anticipation of the National Treasury approving the request for deviation.

## 7. FINDINGS

Having regard to the evidence received, the regulatory framework determining the standard that the Postbank should have complied with and the impact it had, the Public Protector makes the following findings:

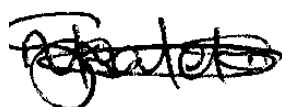
### 7.1 **Whether there was improper conduct and maladministration by Postbank relating to the distribution for the special Covid-19 social distress grants and if so, whether this amounts to improper conduct in terms of section 182(1)(a) of the Constitution and maladministration in terms of section 6(5)(a) of the Public Protector Act:**

- 7.1.1 The allegation that there was improper conduct and maladministration by Postbank relating to the distribution for the special Covid-19 SRD grants is not substantiated.

- 7.1.2 The investigation revealed that Mr Lengane, as an employee of Postbank had the authority to correspond with the National Treasury relating to the distribution for the special Covid-19 SRD grants. Such authority was exercised in his capacity as the acting Chief Commercial Officer. There is further no evidence demonstrating that Mr Lengane's letter to the National Treasury requesting approval and guidance on deviation in the procurement of services in distributing the SRD grants was done fraudulently, as the SAPO Board was aware of this correspondence.
- 7.1.3 No evidence could be established that Mr Abrahams played any role in the matter.
- 7.1.4 The investigation revealed that no expenditure was incurred when the Postbank sought to procure the services of distributing the SRD grants. The National Treasury confirmed that no payment was issued to Blue Label Telecoms relating to the distribution of SRD grants.
- 7.1.5 The investigation further revealed that the criminal case under CAS 167/07/2020, opened against Mr Lengane for using the SAPO letterhead to correspond with the National Treasury was withdrawn by the SAPO.
- 7.1.6 The conduct of Postbank does not constitute improper conduct as envisaged in section 182(1)(a) of the Constitution and maladministration as envisaged in section 6(5)(a) of the Public Protector Act.
- 7.1.7 In the circumstances, the Public Protector is not taking any appropriate remedial action as envisaged by section 182(1)(c) of the Constitution.

## 8. CONCLUSION

- 8.1 The Public Protector considers this matter as finalised and cannot take the matter any further. Should any party wish to challenge this decision, they can approach a court of law and lodge an application for a judicial review of the matter.



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**ADV KHOLEKA GCALEKA**  
**ACTING PUBLIC PROTECTOR OF**  
**THE REPUBLIC OF SOUTH AFRICA**  
**DATE: 30 DECEMBER 2022**

*Assisted by: Ms Ponatshego Mogaladi*  
*Executive Manager: Investigations Branch*