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

CASE NO:

In the matter between:

THE SOUTH AFRICAN HISTORY ARCHIVE TRUST

Applicant

and

**THE MINISTER OF DEFENCE AND
MILITARY VETERANS**

First Respondent

**THE INFORMATION OFFICER:
DEPARTMENT OF DEFENCE AND
MILITARY VETERANS**

Second Respondent

FOUNDING AFFIDAVIT

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I, the undersigned,

CATHERINE MOIRA KENNEDY

do hereby make oath and state the following:

- 1 I am director of the South African History Archive Trust, situated at the Women's Jail, Constitution Hill, 1 Kotze Street, Braamfontein, Johannesburg.
- 2 Save where otherwise stated or where the context indicates to the contrary, the allegations made in this affidavit are within my personal knowledge, and are to the best of my knowledge and belief both true and correct. Where I make legal submissions, I do so on the basis of advice of the applicant's legal representatives.
- 3 I am duly authorised to bring this application on behalf of the applicant. In this regard, I attach a copy of a resolution of the Trustees of the South African History Archive Trust marked "**CMK1**".

THE PARTIES

- 4 The applicant is **THE SOUTH AFRICAN HISTORY ARCHIVE TRUST ("SAHA")**, a non-governmental organisation constituted as a trust in terms of the laws of South Africa. SAHA requested the information, which forms the subject matter of this application, from the first and second respondents.



- 5 The first respondent is the **MINISTER OF DEFENCE AND MILITARY VETERANS** in the national government (“the Minister”), who is cited in her official capacity as the Minister responsible for the Department of Defence and Military Veterans (“Department”), with offices situated at Armscor Building, Block 5, Level 4, cnr Delmas Avenue and Nossob Street, Erasmuskloof, Pretoria. The first respondent is cited care of the State Attorney, Pretoria, whose address is Office of the State Attorney Pretoria, SALU Building, 255 Francis Baard Street. The first respondent is a member of the National Executive and is responsible for the records that were subject to the applicant's request for information under the Promotion of Access to Information Act 2 of 2000 (“PAIA”). The Minister or the person designated by him or her is the “relevant authority” for deciding appeals, in terms of section 1 of PAIA.
- 6 The second respondent is **THE INFORMATION OFFICER OF THE DEPARTMENT OF DEFENCE AND MILITARY VETERANS**, with offices situated at Armscor Building, Block 5, Level 4, cnr Delmas Avenue and Nossob Street, Erasmuskloof, Pretoria. The second respondent is cited in her official capacity, as the officer who decides whether requests to the Department of Defence and Military Veterans for access to information, in terms of PAIA, should be granted or refused.
- 7 In this affidavit, reference to “the Department” is a reference to both respondents, unless the context indicates otherwise.



NATURE OF THE RECORDS REQUESTED

8 This application concerns a request for access to information from the Department of Defence relating to:

8.1 policies and practices of the apartheid government primarily during the 1980's ; and

8.2 the domestic deployment of the military, the names of reports on unlawful intelligence activities and intelligence failures and where declassified the actual reports, or parts of reports, as the case may be.

9 The information is sought as part of research into the historical activities of the military under apartheid. Notably, the information sought relates in the main to the late 1970's and 1980's— information sufficiently old that it cannot possibly constitute a national security concern, as the respondents have suggested in their communication with SAHA and their refusal of the request.

10 Moreover, this application arises from a clear and persistent failure by the Department to comply with its statutory and constitutional obligations and to give effect to PAIA. Had the Department complied with the process and timelines prescribed in PAIA, this application could have been brought more than a year earlier. However, as I set out below, the Department chose instead to follow a different process that delayed and prejudiced SAHA in its attempts to obtain the requested information. In what follows, I set out the objectives and functions of SAHA and the context in which the requests at issue in this application were made. Thereafter I detail the correspondence between the parties and SAHA's



attempts to obtain the records to which it is entitled.

OBJECTIVES AND FUNCTIONS OF SAHA

11 SAHA's objectives are to preserve, collect and catalogue materials of historic, contemporary, political, social, economic and cultural significance, and to encourage the accessibility of such materials to the public as a whole. I attach a copy of SAHA's trust deed marked "CMK2".

12 SAHA is an independent Non-Governmental Organisation ("NGO") dedicated to documenting and providing access to archival holdings that relate to past and contemporary struggles for justice in South Africa. It was established by anti-apartheid activists in the late 1980's to promote the recapturing of South Africa's lost and neglected history and to record history in the making. SAHA aims to document, support and promote awareness of past and contemporary struggles for justice through archival practices and outreach, and the utilisation of access to information laws.

13 In 2001, SAHA launched its Freedom of Information Programme, which is dedicated to using PAIA as a method to test and extend the boundaries of freedom of information in South Africa. This programme further seeks to create awareness of, compliance with, and use of PAIA.

14 Since 2001, SAHA has made over 1800 requests for information from various government departments and it has brought numerous applications in the High Court arising out of refusals of such requests. It has also intervened as *amicus*

curiae in a number of PAIA applications.

- 15 SAHA has developed a comprehensive capacity training programme for NGOs and community based organisations on using PAIA. It has developed resource kits, workshop guides, PAIA case study DVDs, and a dedicated online management system for the submissions and monitoring of PAIA requests made by members of the PAIA Civil Society Network, an umbrella body of organisations, established in 2008, working to advance the right of access to information in South Africa. SAHA has also trained hundreds of activists, students, community members, representatives of NGOs, government officials, attorneys and paralegals in the use of PAIA.

THE NATURE OF THIS APPLICATION AND RELIEF SOUGHT

- 16 This application is brought in terms of section 78(2) read with section 82 of PAIA, in response to the first and second respondents' refusals of the applicant's requests for access to information.
- 17 During August and September 2013, SAHA submitted twelve requests for information to the Department in respect of records in the Department's possession. This application seeks relief in relation to two of those requests.
- 18 The manner in which the Department has dealt with the requests at issue in this case leads to the inescapable conclusion that the Department has misconstrued its obligations under PAIA and the Constitution. Alternatively, it indicates an unwillingness by the Department to give effect to its obligations under PAIA.

Whichever of these is correct - the effect is that the clear requirements of PAIA have not been adhered to and records which ought properly to have been provided to SAHA, have not been made available despite the passage of a protracted period of time.

19 The applicant has therefore been forced to approach this Court for relief. This application relates to two requests for information made to the Department by SAHA, during August 2013. This application has been brought in relation to both requests in order to avoid the duplication of costs, and because the respondents and the issues raised by the requests are substantially the same.

20 Notably:

20.1 SAHA made both the PAIA applications in issue,

20.2 the requests were refused by the same respondents, and

20.3 they raise common questions of fact and law.

21 It is therefore appropriate for both requests to be dealt with in this application.

JURISDICTION

22 I am advised and submit that this Court has jurisdiction to hear this application by virtue of the definition of 'court' in section 1 of PAIA, which provides that 'court' includes the High Court within whose area of jurisdiction the requester is domiciled or ordinarily resident.

23 Section 82(2) of PAIA provides that the court hearing an application of the present sort may grant any order that is just and equitable including orders:

“(a) confirming, amending or setting aside the decision which is the subject of the application concerned;

(b) requiring from the information officer or relevant authority of a public body or the head of a private body to take such action or to refrain from taking such action as the court considers necessary within period mentioned in the order;

(c) granting an interdict, interim or specific relief, a declaratory order or compensation;

(d) as to costs; or

(e) condoning non-compliance with the 180-day period within which to bring an application, where the interests of justice so require.”

24 The respondents constitute a "public body" within the meaning of that term as contemplated by section 1 of PAIA. Moreover, the applicants have exhausted the relevant internal appeal procedures in PAIA in that:

24.1 The second respondent refused (either explicitly or through a deemed refusal) both of the applications for access;

24.2 Internal appeals were lodged against such refusals in terms of section 74 of PAIA;

24.3 Section 77(7) provides that where the relevant authority fails to give notice of a decision on an internal appeal within the stipulated period, the authority is regarded as having dismissed the internal appeal.

25 I submit below that either the late "decisions" by the second respondent were

ineffective because they were made after there was a deemed refusal as a matter of law, and after internal appeals had been lodged; or they are to be treated as decisions on appeal. In either event, the administrative process has run its course.

- 26 Accordingly, the applicant is entitled to bring this application in terms of section 78(2) read with section 82 of PAIA.

THE IMPORTANCE OF THE CONSTITUTIONAL RIGHT OF ACCESS TO INFORMATION AND THE ROLE OF PAIA IN GIVING EFFECT TO THE RIGHT

- 27 Section 32 of the Constitution establishes a right of access to information held by both public and private bodies. It states that:

"(1) Everyone has the right to have access to

a) any information held by the State; and

b) any information that is held by another person that is required for the exercise or protection of any right.

(2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the State."

- 28 PAIA is the national legislation envisaged in section 32(2) of the Constitution. It was enacted in order to give effect to the right of access to information and to promote the values of openness, transparency, accountability and good governance – principles foundational to the Constitution.

- 29 The preamble of PAIA records that the system of government in South Africa before 27 April 1994 "resulted in a secretive and unresponsive culture in public

and private bodies which often led to an abuse of power and human rights violations". The preamble continues that PAIA is enacted to "foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information".

30 Section 9 of PAIA describes as its object, *inter alia*, the promotion of:

"... transparency, accountability and effective governance of all public and private bodies by including, but not limited to, empowering and educating everyone

to understand their rights in terms of this Act in order to exercise their rights in relation to public and private bodies;

to understand the functions and operation of public bodies;

to effectively scrutinise... decision-making by public bodies that affects their rights."

31 I am advised and submit that:

31.1 in terms of PAIA, public bodies are under a duty to provide access to a requested record, or part of it, unless refusal of the request is permitted or required by one or more of the grounds listed in PAIA; and

31.2 every request for access to information in terms of PAIA is an invocation of the section 32 right in the Constitution and entitles the requestor to access to the requested record, or part thereof, if that requestor complies with all the procedural and statutory requirements set out in the statute, unless there is a valid ground of refusal on which the private or public body may rely.

31.3 the Constitutional Court has repeatedly made clear that the right of access to information is fundamental to the realisation of the other rights guaranteed in the Bill of Rights.

32 I now turn to deal with the nature of the requests.

THE REQUESTS

33 On 23 August 2013, SAHA made four PAIA requests to the Department for records archived by the Department on behalf of the South African Defence Force. The records relate to the following archive groups:

33.1 Military intelligence,

33.2 Military Budgets, and

33.3 Operations by Chief of Staff.

34 One of these requests, SAH-2013-DOD-0008, is the subject matter of this application. To this request was attached an annexure – Annexure A – which itemised the documents that SAHA sought to obtain from the Department. Annexure A specifically identifies each set of records requested by box number and archive group. A copy of this request is attached and marked “**CMK 3**”.

35 On 27 August 2013, SAHA made a further PAIA request to the Department for all records:



"1. Listing all joint deployments of the South African National Defence Force and the South African Police Service for each of the financial or calendar years that are available for the period from 1 January 2003 to 31 July 2013, including for each of the deployments - noting the information is sought even if each additional piece of requested information listed below is not available:

- The description and nature of the deployment(s),*
- Start and end dates for the deployment(s),*
- Names of units deployed for each service, and*
- Number of units deployed for each service.*

2. Listing the names/titles of reports provided to the Inspector-General of Intelligence on unlawful intelligence activity or significant intelligence failure for those intelligence services/divisions in the South African National Defence Force that are accountable to the Minister of Defence and Military Veterans for each of the financial or calendar years that are available for the period from 1 January 2003 to 31 July 2013.

3. The declassified reports, or declassified parts of those reports (referred to in No. 2 above) provided to the Inspector-General of Intelligence for each of the financial or calendar years that are available for the period from 1 January 2013 to 31 July 2013."

36 A copy of this request is attached as annexure "CMK 4". SAHA's reference number in respect of this request is SAH-2013-DOD-0011.

37 This application concerns both requests: SAH-2013-DOD-0008 and SAH-2013-DOD-0011.

RESPONSES TO THE REQUESTS

38 The Department's response to the requests for information indicate a failure to follow the scheme of PAIA, and to comply with the obligations that flow from that scheme, as well as from the Constitution. Alternatively, the Department's attitude

is reflective of a complete disregard of the processes set out in PAIA.

- 39 I say this because the Department has consistently failed to respond to SAHA's requests in a timely manner, and in several instances, responded to the requests after there had already been a deemed refusal of the request and internal appeals had been filed. The Department's practice in this regard is out of step with the PAIA processes, and it frustrates SAHA's right of access to information.
- 40 Where it refused access to records, the Department's stated grounds (for such refusal) are a regurgitation of the provisions of PAIA, without any detail of why any of the grounds specified apply to the specific records requested.
- 41 Finally, despite the refusal of requests, the Department continued to engage with SAHA, giving the indication that it would provide access to records notwithstanding its refusals. On 15 June 2015, SAHA wrote to the Department seeking a clear decision on its outstanding requests and an opportunity to access any records to which access could be granted. I attach a copy of this email marked "**CMK 5.**"
- 42 In response, on 22 June 2015, the Department wrote to SAHA by letter attached hereto marked "**CMK 6.**" In relation to SAH-2013-DOD-0011, that letter indicated that the information had been requested from the Department of Defence Joint Operations Divisions. The records had been consolidated and would be submitted to the Director General's office as soon as the Chief of Joint Operations had signed the letter. Moreover, the letter stated that once the

records had been received by the Director-General's office, a process must be followed in order to determine whether the records can be made available to SAHA. This involves declassification, masking, legal recommendation before final decisions are taken by the Chief of South African National Defence Force and Secretary of Defence as to whether the records may be released. In relation to SAH-2013-DOD-0008, that letter indicated that the department was "co-ordinating" the request and would revert to SAHA upon finalisation of an internal report.

43 Notably, the above letter makes clear that:

43.1 Notwithstanding the fact that the Department has in both instances either refused access or failed to respond to the request thereby allowing a deemed refusal of access, it considers the requests to be open to being considered once more and is in the process of making that determination.

43.2 Moreover, the Department is of the view that the final decision as to whether or not the records ought to be released, lies with the Chief of South African National Defence Force and/or the Secretary of Defence. This is in direct conflict with the provisions of PAIA as I set out below.

43.3 In short, the letter makes clear that the Department has adopted a process for the evaluation of requests for information, which is contrary to the clear and unambiguous process set out in PAIA. This has resulted in the present situation, in which SAHA has allowed the Department an extended

period of time in the hope that it would be provided with the information requested, without the need to approach a court. However, the Department's letter of 22 June 2015 makes clear that no decision is imminent and even if it were, the process followed by the Department is so hopelessly inadequate and non-compliant, that SAHA has no recourse but to approach this Court for access to the records requested.

44 I now turn to deal with the Department's response to each of the two requests that this application concerns itself with:

The Department's Response to SAH-2013-DOD-0008

45 After submitting this request on 23 August 2013, SAHA sent letters to the Department, on 2 and 27 September 2013, and 7 October 2013, reminding the Department that PAIA required the Department to respond to requests for information within 30 days. These letters are attached and respectively marked "CMK 7", "CMK 8", and "CMK 9". None of these reminders yielded any response from the Department.

46 However, on 7 January 2014, at the Department's request, SAHA re-sent its original PAIA request. The Department's email requesting SAHA to re-send its original request, as well as SAHA's response attaching the request are attached as annexures "CMK 10" and "CMK 11" respectively.

47 SAHA therefore filed an internal appeal in terms of the Act, on the grounds that the Department's silence, past the 30-day period, amounted to a deemed refusal in terms of section 78(7) of PAIA. A copy of the internal appeal is attached and

marked "CMK 12".

48 SAHA's internal appeal was filed on 31 October 2013, but when it appeared that the email attaching the appeal form might not have gone through to the Department, SAHA sent it again on 20 January 2014. Annexure "CMK 13" is a copy of SAHA's email of 20 January 2014, attaching the internal appeal.

49 Notwithstanding the provisions of section 77(3), which require the relevant authority to decide on an appeal within 30 days, the Department responded to SAHA's request over a year later (on 13 November 2014).

50 This response is attached marked "CMK14". It granted access to certain of the requested records, advising SAHA that these records had been declassified and were ready for perusal. However, the Department also provided a list of records falling within SAHA's request, the description of which did not correspond with the Department's archival "box numbers" and further declined to grant SAHA access to 28 of the requested files, on the following grounds:

50.1 Section 41(1)(a)(i) and (ii) in that the records can reasonably be expected to cause prejudice to the defence or the security of the Republic.

50.2 Section 41(1)(b)(i),(ii) and (iii) in that if disclosed, the information would reveal information:



- 50.2.1 supplied in confidence by or on behalf of another state or an international organisation.
- 50.2.2 supplied in confidence by or on behalf of another state or an international organisation in terms of an arrangement or international agreement (contemplated in section 231 of the Constitution) with the State or organisation, that the information so supplied would be held in confidence.
- 50.2.3 the release of which would reveal information required to be held in confidence by an international agreement or customary international law, as contemplated in section 231 or 232 of the Constitution.
- 50.3 Section 41(2)(b) in that the release of the record would reveal information required to be held in confidence regarding the purpose of intelligence relating to:
- 50.3.1 The defence of the Republic;
- 50.3.2 The detection, prevention and suppression or curtailment of subversive or hostile activities; or

50.3.3 Another state or international organisation used by on behalf of the Republic in the process of liberation and consultation in the conduct of international affairs.

50.4 I point out that the Department stated that it relied for its refusal on section 41(2)(b) but then proceeded to quote section 41(d). For present purposes we assume that the reference to section 41(2)(b) was an error and the Department intended to rely on section 41(2)(d).

50.5 Section 41(2)(c)(i) and (ii) in that the release of the records would reveal information about or relating to the characteristic, capabilities, vulnerabilities, performance, potential, deployments or functions of:

50.5.1 Any military force, unit, or personnel; or

50.5.2 Any body or person responsible for the detection, prevention, suppression or curtailment of subversive or hostile activities.

50.6 Section 41(2)(d)(i) and (ii) in that the requested records "are kept closed" for intelligence purposes relating to the defence of the Republic and the "detection, prevention, suppression or curtailment of subversive or hostile activities". This appears to be a repetition of the reliance on section 41(2)(d) referred to above.

50.7 Section 41(2)(e) in the requested records contain information on methods



of, and scientific or technical equipment for, collecting, assessing or handling information.

50.8 Section 41(2)(f) in that the requested records contain information on the identity of a confidential source and any other source of information.

50.9 Section 34(1) in that the disclosure of the information "would involve the unreasonable disclosure of personal information about a third party, including a deceased individual".

51 Not only is the Department's reliance on the above provisions not justified, but the Department does not appear to accurately apply the relevant provisions. In fact, it misconstrues the substance of at least one provision:

51.1 For example, section 41(2)(b) of the Act allows for a refusal of requests if the requested information contains information relating to: -

"the quantity, characteristics, capabilities, vulnerabilities or deployment of: (i) weapons or any other equipment used for the detection, prevention, suppression or curtailment of subversive or hostile activities; or (ii) anything being designed, developed, produced or considered for use as weapons or such other equipment."

52 Section 41(2)(b) does not allow for a refusal on the basis that the information requested contains information relating to "any military force, unit, or personnel", as the Department states in its refusal letter referred to above. The Department's reliance on this provision, in refusing access, is therefore, without merit.

- 53 The decision letter was further deficient in that it failed to provide a decision on every part of the request.
- 54 On 28 November 2014 SAHA provided feedback to the Department on the records the Department had identified as not corresponding with the Department's archival "box numbers". In this communication SAHA also noted that the Department's decision letter (CMK 14 above) failed to address at all 14 records forming part of the request and listed those records for the attention of the Department. A copy of SAHA letter is attached and marked "**CMK 15**".
- 55 On 18 February 2015, the Department addressed a letter to SAHA, in which it noted that the outstanding parts of the request under Departmental reference number SAHA 2013/0008 (SAHA reference number: SAH-2013-DOD-0008) were being attended to by the Department's Archives. A copy of this letter is attached and marked "**CMK 16**".
- 56 On 15 June 2015, SAHA wrote to the Department (annexure CMK 5), seeking to confirm whether the Department had, in light of its letter of 18 February 2015, taken any further decisions. In response, the Department wrote to SAHA indicating that it got assurance from the Defence Intelligence Division that the latter was "*currently busy coordinating these requests and would submit a report before the end of June 2015*". The Department indicated further that SAHA would be "*informed of the outcome as soon as the report is received from the departmental archives and Defence Intelligence Division*".

- 57 The Department then sent a further letter to SAHA, dated 6 July 2015, advising that access to one of the files in its request was not granted and that the refusal was based on section 34(1) of PAIA. In relation to other files under the same request, the Department referred SAHA to "*pages 8 and 9, paragraphs 34 to 38 of the letter dated 13 November 2014. (Attached as enclosure 1, pages 8 and 9 of the letter dated 13 November 2014 for easy reference)*". A copy of this letter is attached and marked "**CMK 17**".
- 58 Although referred to as enclosures, the Department omitted to attach pages 8 and 9. SAHA wrote to the Department on 13 July 2015, pointing out the omission, indicating that the letter in its possession dated 13 November 2014 was incomplete, and requesting a copy of the letter that the Department had referred to. A copy of this correspondence is attached and marked "**CMK 18**".
- 59 On 17 July 2015 the Department forwarded a copy of the decision letter of 13 November 2014 (annexure CMK 14). A copy of this correspondence is attached and marked "**CMK 19**". To which correspondence SAHA responded on 24 July 2015 noting that page 9 was missing from the decision letter and seeking clarity on whether the Department would be providing a decision on the outstanding parts of the request, as per its communication dated 18 February 2015 (annexure CMK 16).
- 60 Page 9 of the 13 November 2014 letter (which had not previously been provided) was sent to SAHA on 21 August 2015, under cover of a letter in which the Department advised SAHA that its decision on 13 November 2014 was final. This

was surprising, especially in light of the advice given to SAHA in the 18 February letter, that the request was being attended to. A copy of the 21 August 2015 letter is attached and marked "CMK 20".

61 On 21 September 2015 SAHA wrote to the Department noting that, despite the provision of the page missing from the decision letter of 13 November 2014 (annexure CMK 14) the Department's decision still failed to address two records listed in the request.

62 On 7 October 2015, Ms Toerien van Wyk of SAHA met with the Department's Col. Barnard. With respect to SAH-2013-DOD-0008 Col. Barnard indicated, in relation to the two records which SAHA noted a decision was still outstanding on, that access had in fact been denied, on the basis of section 34 of PAIA, to one of the two records [this record had, according to the Colonel, been addressed in the Department's decision letter (annexure CMK 14) – but that the Department had erroneously cited the record incorrectly due to a typographical error], the Colonel undertook to follow-up on the second record and provide a decision thereon. With respect to the list of records in relation to which the Department had indicated in its decision letter that the descriptions did not correspond with the archival "box numbers" and on which SAHA had provided feedback on 28 November 2015 the Colonel undertook to follow-up internally and to provide SAHA with feedback. This has not happened to date. Ms van Wyk's confirmatory affidavit is attached.

63 In communication dated 6 November 2015, attached and marked "CMK 21", the

Department again confirmed to SAHA that it was attending to the outstanding parts of the request.

The Department's Response to SAH-2013-DOD-0011

- 64 SAHA made a request to the Department on 27 August 2013, and wrote to the Department on 1 and 6 September 2013, as well as on 1, 11 and 26 October 2013, reminding it that PAIA requires the Department to respond to requests for information within 30 days. Copies of these letters are attached as annexures "CMK 22", "CMK 23", "CMK 24", "CMK 25", and "CMK 26", respectively.
- 65 SAHA deemed the Department's lack of a response as a refusal in terms of section 27 of PAIA. It thus filed an internal appeal on 12 November 2013. A copy of the internal appeal is attached and marked "CMK 27".
- 66 On 29 November 2013, the Department responded to SAHA's request as follows:

"1 . . .

2. The reports in section D, paragraphs 2 and 3, are in the domain of the State Security Agency and not in the Department of Defence. The reports are compiled by the Inspector-General of Intelligence after conducting the monitor and review of Defence Intelligence and Counter Intelligence activities. Therefore, the request is transferred back to SAHA in terms of section 20(2)(a) [and] (b).

3. You are herewith informed that section D paragraph one (1) of your request is currently being attended to . . . Therefore this office requests a further extension in terms of section 26(1) of the Act until 30 December 2013 in order to complete your request."

In relevant part, section 20(2) provides as follows:



“If a request for access is made to the information officer of a public body in respect of which-

the record is not in the possession or under the control of the public body of that information officer and the information officer does not know which public body has possession or control of the record;

the record’s subject matter is not closely connected to the functions of the public body of that information officer and the information officer does not know whether the record is more closely connected with the functions of another public body than those of the public body of the information officer to whom the request is made . . .

the information officer to whom the request is made, must as soon as reasonably possible, but in any event within 14 days after the request is received, transfer the request to the information officer of the public body by or for which the record was created or which received it first, as the case may be.”

67 In response to the Department’s letter, SAHA noted that although section 26(1) of PAIA does not apply to internal appeals, it undertook not to take further steps to challenge the internal appeal until 6 January 2014. SAHA also brought to the Department’s attention that the reports to which it sought access are not compiled by the Inspector-General of Intelligence. It clarified that the reports it requested are those prepared by the Department, and then sent to the Inspector-General of Intelligence (which the Inspector-General, in turn, uses to compile other reports). SAHA further pointed out to the Department that in any event, section 20(2), firstly, does not apply to internal appeals but to original requests and, secondly, allows only for transfers to public entities, and that it was therefore not open to the Department to transfer a request to SAHA. SAHA’s email, dated 29 November 2013, is attached and marked “**CMK 28**”.

68 When no response was forthcoming from the Department, SAHA wrote a follow-

up email on 10 December 2013. A copy of it is attached as "**CMK 29**".

69 On 11 December 2013, the Department sent an email to SAHA, advising that a new letter, which related to SAHA's request had been drafted and would be signed the next day. However, on 12 December 2013, the Department addressed a letter to SAHA, which is virtually identical to the 29 November letter. Copies of these letters are attached and marked "**CMK 30**" and "**CMK 31**".

70 SAHA sent further emails to the Department, on 16 January 2014 and 7 February 2014, asking for an update on its request. Copies of these emails are attached and marked "**CMK 32**" and "**CMK 33**". The Department responded on 17 February 2014, advising that the records referred to in SAHA's request, had been transferred to the Inspector-General Intelligence, "*as the request does not fall with the ambit of the Department of Defence.*" A copy of this letter is attached and marked "**CMK 34**".

71 On 25 February 2014, SAHA sought confirmation from the Department as to whether the Department would deal with the entirety of its request, and that no part of it would be sent back to the Inspector General. A copy of its correspondence in this regard is attached as "**CMK 35**". The Department responded on the same date, advising that:

"After a discussion with Adv J Govender on 20 February 2014 the transfer of this request to the Inspector-General Intelligence is being retracted. The Department of Defence will pursue this request further for the records requested."

- 72 Annexure "**CMK 36**" is a copy of the Department's letter to SAHA. SAHA then wrote to the Department again on 27 February 2015, asking when it could expect a response and requesting a time frame for a response from the Department. No response was received to this letter. SAHA again sent a follow-up communication on 15 June 2015 (annexure CMK 5) requesting a decision on this request.
- 73 On 22 June 2015, the Department addressed a letter to SAHA, advising that the information regarding request SAH-2013-DOD-0011 had been requested from the Department of Defence Joint Operations Division. The letter advised further that as soon as these records were received from the Department of Defence Joint Operations Division, they would have to go through a further internal process. A copy of this letter is attached as "**CMK 37**".
- 74 On 7 October 2015, Ms Toerien van Wyk of SAHA met with the Department's Col. Barnard and he indicated that there are two more decision makers that needed to sign-off on the decision regarding request SAH-2013-DOD-0011. Yet again, no such decision was forthcoming.
- 75 SAHA attempted to follow up on this by letter dated 25 November 2015. The Department's response, dated 30 November 2015 stated that it was processing the request and outlining its internal processes. SAHA's letter and the Department's response are attached hereto as "**CMK 38 and CMK 39**".

The Department's position in relation to bundle and box numbers

- 76 On 25 February 2015, the Department's Lt Col. Erika Strydom called SAHA's Ms

Van Wyk to enquire as to the status of payment of request fees with respect to a number of SAHA's PAIA requests (with respect to the two requests forming part of this application, full payment had in fact, at that time, been made by SAHA).

77 During the course of this conversation, Lt Col Strydom brought to SAHA's attention that SAHA had provided the Department with bundle numbers instead of box numbers in certain instances. Lt Col. Strydom, also noted that these mistakes had been rectified on SAHA's behalf.

78 The corrections were made on SAHA's behalf because the requests had been with the Department for so long. But the Department was clear that in future, it would simply deny requests that contain bundle numbers instead of box numbers, and the requestors would have to re-submit their requests with the correct details. In response, Ms van Wyk indicated that the problem often emanated from the Department's archival lists, which are inaccurate. Lt Col. Strydom's suggested requesters should take up the issue of inaccurate archival lists with Ms Jooste of the Department's Archive.

79 I pause to highlight that such a requirement would have the effect of limiting SAHA's right of access to information without cause.

79.1 SAHA gets its information from the Department's archival lists, yet where those lists are inaccurate, the Department seeks to have the requestor (such as SAHA) bear the brunt of its own mistakes. In response to Lt Col. Strydom, Ms van Wyk indicated that while SAHA will request that researchers also write to Ms Jooste to clarify the list, where a PAIA request

is made, it will also be addressed to the Deputy Information Officer, in line with PAIA processes.

79.2 Moreover, it may not always be possible for a requested to identify where precisely a record is located in the Department's archives. The provision of box numbers is an added assistance by SAHA for the benefit and ease of the Department. It is not a requirement under PAIA.

80 In any event, during the conversation, Ms van Wyk once again enquired as to the status of the outstanding 2013 requests. The response she received was that the requests were being attended to.

81 Ms van Wyk followed up the telephonic conversation with a letter, dated 27 February 2015, in which she noted that on 24 February 2014, the Department indicated that it would pursue the requests further, and sought an indication as to whether SAHA could expect a response "shortly". A copy of this letter is attached and marked "CMK 40."

82 As set out above, to date, no sufficient response to the outstanding requests has been received.

PUBLIC INTEREST AND THE RELEVANCE OF REQUESTED DOCUMENTS

83 I am advised and submit that the each of the two requests has been refused- whether by virtue of a deemed refusal under the statute, or by virtue of a refusal after the internal appeal was filed. There is no merit in any of the grounds of refusal. This is because the period of time which has lapsed has rendered any

confidential information or privacy interests inapplicable. Moreover, the records requested under SAH-2013-DOD-0008 relate to policies and practices of the apartheid government during the 1980's and the records requested under SAH-2013-DOD-0011 relate to the domestic deployment of the military, the names of reports on unlawful intelligence activities and intelligence failures and where declassified the actual reports, or parts of reports, as the case may be.

84 In any event, even if there was potentially a valid ground for refusing access to the requested records, I am advised and submit that the public interest in the disclosure of the records is so significant that it would in any event outweigh any harm contemplated in any such ground.

85 Section 46 of PAIA provides:

"Despite any other provision of this Chapter, the information officer of a public body must grant a request for access to a record of the body contemplated in section 34(1), 36(1), 37(1)(a) or (b), 38(a) or (b), 39(1)(a) or (b), 40, 41(1)(a) or (b), 42(1) or (3), 43(1) or (2), 44(1) or (2) or 45, if-

(a) the disclosure of the record would reveal evidence of-

(i) a substantial contravention of, or failure to comply with, the law; or

(ii) an imminent and serious public safety or environmental risk; and

(b) the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question."

86 This general override provision is mandatory and does not vest any discretion in the information officer.

87 In other words, even if any one of the grounds of refusal were otherwise valid, the second respondent was nevertheless obliged to make the records available

in the public interest. The respondents do not show that they considered this issue adequately or at all.

88 I submit that it is in the public interest for the records requested to be disclosed.

The public interest in disclosure

89 The SAH-2013-DOD-0008 request relates to files primarily for the period 1978-1994 (barring a handful of exceptions where the file period extends to 1996). These are all documents that primarily explain the (then) South African Defence Forces (SADF) procurement practices during the apartheid era, at a time of heightened state militarisation and engagement in armed conflict within the Southern African region and the Republic of South Africa. The documents to which SAHA has been denied access are primarily from two archival groups: 'Military Intelligence' and 'Chief of Staff Finance'. The Chief of Staff Finance was engaged in procurement at a number of levels and this category of documents would give SAHA and its researcher associates insight into historical controls over the use of public funds by the apartheid military. The SADF Military Intelligence played an important role during the apartheid period in facilitating the contacts that enabled the apartheid state to procure weapons across the world in clear and direct violation of mandatory United Nations sanctions. Access to these documents is therefore crucial to understanding historical practice largely hidden from public view in South Africa. These documents are likely to include details of criminal conduct and require a public airing not least because they almost exclusively stem from the apartheid period.

90 The withholding of this information has had a negative effect on the South African

public's ability to engage with and understand the extent of illegal practices and their relationship to apartheid.

- 91 Moreover, certain of the requested records relate to aspects of governance in South Africa, which are largely focussed on a period of between 20 and 40 years ago. It has become increasingly difficult to find individuals and material that can help shed light on some of the narratives which emerge from records to which access had previously been restricted.
- 92 The longer the delay in accessing the requested records, the more likely it is that key sources (some of whom will be identified by these documents) would have passed away. Therefore, any delays in accessing the information will inhibit researchers' ability and that of the public to understand the records within their proper context.
- 93 In essence, these requests relate to an important, but poorly researched and understood aspect of South Africa's recent past.
- 94 The SAH-2013-DOD-0011 request relates to joint deployments of the military and the police, and intelligence failures reported on to the Inspector-General of Intelligence.
- 95 The 1996 White Paper on National Defence cautioned against the use of the military for internal security purposes. This is because the military is trained to use maximum force during periods of external aggression against the country (such as war waged by an invading army). The police, on the other hand, are

trained very differently, as they are focused on domestic security matters, usually in times of peace. They tend to use minimum force and escalate it according to the level of threat they face. These differences make military personnel ill-suited for domestic deployment. Information available in the public domain suggests that the military is being deployed with the police with growing frequency. It is essential that the public gain a full understanding of the extent to which this is so, and to establish whether these deployments are absolutely necessary.

- 96 South Africa has a history of secrecy recognised in the Preamble of PAIA. The new constitutional and legislative framework put in place after apartheid was meant to ensure that such abuses never happened again. Access to the reports on intelligence failures made to the Inspector-General are important as they will shed light on the effectiveness of these most sensitive areas of government and provide an indication on whether the new legislative framework is effective in avoiding the abuses perpetrated under apartheid, something the public has a clear interest in.
- 97 Further, South Africa is anticipating a review of intelligence policy, to be followed by a State Security Agency Bill. It will be impossible for the public to engage meaningfully in this review without more insight into the workings of the intelligence agencies, how they have functioned and whether they are meeting their mandates of anticipating significant threats to national security.
- 98 The public's interest in the requested documents can therefore relate to a past and present secretive and unresponsive culture, something that PAIA was

intended to change.

THE RESPONDENTS' REFUSALS OF THE REQUESTS ARE UNJUSTIFIED

99 As appears from what I have set out above, the Department has, despite the passage of a significant period of time and repeated assurances that a decision is forthcoming in relation to SAH-2013-DOD-0011 failed to provide a substantive decision on that request. The request is deemed refused by operation of the provisions of section 27 of PAIA and the internal appeal is deemed dismissed by operation of the provisions of section 77(7) of PAIA.

100 Where the Department has provided a substantive decision, in relation to SAH-2013-DOD-0008, it has asserted pro forma and generic grounds of refusal. Many of the grounds of refusal are self-evidently inappropriate, as evidenced by the Department's Decision letter attached to this affidavit. This substantive refusal shows that the decision-maker cannot have considered the matter properly, and cannot have had regard to whether the exemptions provided in PAIA are actually applicable to the content of each of the records so refused.

101 The refusals are all blanket refusals, applying to every part of every record refused. I submit that it is inconceivable that every part of every document refused may not be disclosed. It is clear the respondents have not properly considered every part of every record refused.

102 The respondents are required by PAIA to provide adequate reasons for the refusal of any request. I submit that a simple repetition of the statutory grounds

of refusal, without applying those to the facts of the case, does not amount to the giving of reasons at all, let alone adequate reasons. The failure to give adequate reasons, where this is a legal obligation, gives rise to the inference that there are no justifiable or adequate reasons for the refusals.

GROUNDS OF REFUSAL

103 In essence, the requests have been refused on the grounds that:

103.1 the release of the documents would reveal information required to be held in confidence by international agreement or customary international law, contemplated in sections 231 or section 232 of the Constitution.

103.2 the release of the record would reveal information required to be held in confidence, in order to protect:

- (i) the defence of the Republic;
- (ii) the detection, prevention, suppression or curtailment of subversive or hostile activities; or
- (iii) another state or an international organisation used by or on behalf of the Republic in the process of deliberation and consultation in the conduct of international affairs.

103.3 the release of the record would reveal information containing trade secrets of the State or public body.

103.4 the disclosure of the records can reasonably be expected to cause prejudice to the defence or the security of the Republic.

103.5 if disclosed, the information would reveal information:

103.5.1 Supplied in confidence by or on behalf of another state or an international organisation.

103.5.2 Supplied in confidence by or on behalf of another state or an international organisation in terms of an agreement or international agreement (contemplated in section 231 of the Constitution) with the State or organisation, that the information so supplied would be held in confidence.

103.5.3 The release of which would reveal information required to be held in confidence by an international agreement or customary international law, as contemplated in section 231 or 232 of the Constitution.

103.6 the release of the records would reveal information about or relating to the characteristic, capabilities, vulnerabilities, performance, potential, deployments or functions of:

103.6.1 Any military force, unit, or personnel; or

103.6.2 Anybody or person responsible for the detection, prevention, suppression or curtailment of subversive or hostile activities.

103.7 the requested records "are kept closed" for intelligence purposes relating to the defence of the Republic and the "detection, prevention, suppression or curtailment of subversive or hostile activities".

103.8 the requested records contain information on methods of, and scientific or technical equipment for, collecting, assessing or handling information.

103.9 the requested records contain information on the identity of a confidential source and any other source of information.

103.10 the disclosure of the information "would involve the unreasonable disclosure of personal information about a third party, including a deceased individual".

104 I am advised and submit that these responses are flawed for the reasons which I have given above, and for the further reasons which follow. In light of the general approach adopted by the respondents, I deal with these reasons in a consolidated manner to avoid prolixity.

Failure to apply section 28 (severability)

105 At no stage in any of the decisions does there appear to have been any attempt to consider whether any part of any of the requested records can be released. This is required by section 28 of PAIA. In summary, section 28 of PAIA provides that information must be disclosed where information that may or must be

refused can reasonably be severed from any part of a record that does not contain information that may or must be refused.

106 The failure to consider whether any part of the requested records may be released with the appropriate severance of those portions of the records which may validly be withheld, constitutes a failure to comply with the obligations imposed on the Department by PAIA.

Some of the requested information relates to an official of a public body

107 It appears that the respondents have also not considered section 34(2)(f) of PAIA which, in summary, states that a record containing personal information about a third party may not be refused insofar as it consists of information about an individual who is, or was, an official of a public body, and which relates to his or her position or functions in that capacity.

107.1 This is of particular relevance to the documents relating to the *Operations of the Chief of Staff*. The individuals who held these posts were officials of a public body and the information sought relates to their functions in those capacities.

107.2 It is probable that the records relevant to the two requests also contain information relating to the functions of officials of public bodies.

107.3 Given the nature and origin of the requested records, it seems unlikely that there could not have been a single record or part of a record to which this subsection would be applicable. The respondents do not, however,

indicate that this aspect was ever considered. They do not say that they have not found a single document, or any part of a record, to which this applies.

South Africans have a right to access state-held information

108 The refusal by the Department to provide SAHA with access to the requested records, and the manner of these refusals, both the substantive and the deemed refusal, demonstrates that the Department has only paid lip service to the right of all South Africans to access any information held by the State, as contained in section 32 of the Constitution and PAIA. This will be addressed in argument at the hearing of this matter.

SECTION 80 OF PAIA

109 Section 80(1) of PAIA makes provision for what our courts have termed “a judicial peek”. It provides:

“Despite this Act and any other law, any court hearing an application, or an appeal against a decision on that application, may examine any record of a public or private body to which this Act applies, and no such record may be withheld from the court on any grounds

110 Should this Court wish to examine the records concerned with a view to determining whether there is any basis for refusing access to the records concerned, it is empowered to do *mero motu*.

111 I submit that a “judicial peek” would be appropriate if there are any material disputes of fact as to what the records contain. The manner in which the respondents have given “reasons” has made it impossible for the Applicant to

engage further with the facts in these founding papers, because the respondents have simply not put up any facts which can be addressed.

112 I record that to the extent that the Department seeks assistance in compiling the requested documents, SAHA hereby tenders the necessary assistance in the form of personnel for this purpose.

CONDONATION

113 The conduct of the Department in failing to comply with any timeline in PAIA but then indicating that it may provide access to the records requested resulted in a situation in which SAHA was unclear as to whether the Department was about to provide it with the records requested. It therefore made every effort to avoid approaching a court in the hope that the Department was attempting to provide access, albeit in a somewhat misguided manner.

114 Upon receipt of the Department's letter dated 22 June 2015, SAHA started to doubt whether it would obtain access to the records requested. It therefore placed the Department on terms to indicate an appropriate timetable for the provision of the records by 6 July 2015, failing which it would approach a court for assistance.

115 The Department's failure to provide the requested timetable, coupled with its letter of 21 August 2015, necessitated the bringing of this application. To the extent that this Court is of the view that SAHA ought to have launched these proceedings immediately upon the expiry of the 180 day period following the

deemed refusal of each internal appeal, SAHA respectfully seeks the condonation of this Court for its failure to do so. This failure was a direct result of continued vacillation by the Department as to whether it would provide the records requested or not, and SAHA's attempts to avoid litigation against the Department unless such litigation is necessary.

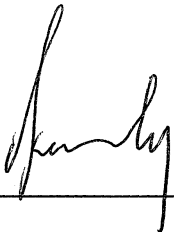
CONCLUSION

116 For all the reasons set out in this affidavit, I submit that:

116.1 The respondents have failed to give effect to their constitutional obligations and their obligations under PAIA; and

116.2 There is no justifiable basis for the refusals of access to the information requested.

117 In the circumstances, I ask that this Honourable Court grant an order in terms of the notice of motion.

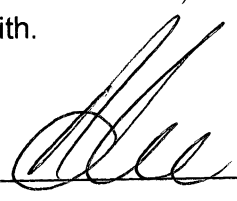


CATHERINE MOIRA KENNEDY

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was

signed and sworn to before me at JOHANNESBURG on this the 17th day of FEBRUARY 2016, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, have been complied with.

COMMISSIONER OF OATHS
Annelie Du Plessis
Attorney
ProBono.Org
1st Floor West Wing
Women's Jail
Constitution Hill
1 Kotze Street
Braamfontein



COMMISSIONER OF OATHS

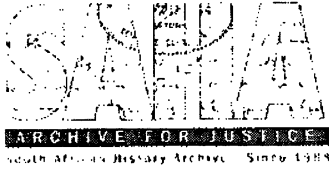
Full names: *Annelie du Plessis*

Address: *1 kotze street, Braamfontein*

Capacity: *Attorney*



CMK 1
46



RESOLUTION BY THE TRUSTEES OF THE SOUTH AFRICAN HISTORY ARCHIVES TRUST
Pursuant to clause 9.6 of the Deed of Trust

It is resolved that:

1. The South African History Archive Trust ("SAHA") will launch applications in its own name in the High Court of South Africa, Johannesburg, challenging various compliance issues under the Promotion of Access to Information Act, 2000 ("PAIA") including relating to certain provisions around application of exemptions, providing adequate reasons, searches for records and obligations to respond to PAIA requests submitted in consultation with researchers, including Mr Hennie van Vuuren and Professor Jane Duncan.
2. That Lawyers for Human Rights Pretoria Law Clinic be appointed to act as attorneys of record and represent SAHA in the proceedings to be instituted against respondents to be confirmed and that the said attorneys do all things necessary in the application on behalf of SAHA.
3. That Catherine Moira Kennedy be authorised to depose to such affidavits in the said proceedings on behalf of SAHA, as may be required and further Catherine Moira Kennedy be authorised to give instructions from time to time as she may deem necessary to the said attorneys in relation to the proceedings.

Signed on this the 27th day of September 2014.

TRUSTEE	SIGNATURE	DATE
VERNE HARRIS ID: 5804215085085		30/9/2014
SELLO HATANG ID: 7504285846089		27/09/2014
HORST KLEINSCHMIDT ID: 4510175466089		28.11.2014
ANTHONY MANION ID: 7604135132084		27/09/2014
MN NIEFTAGODIEN ID: 6410225158083		27/09/14

Box 31719, Braamfontein 2017, Johannesburg - Tel: +27 (0) 11 718 2560 - Fax: +27 (0) 865 001 600 - Email: info@saha.org.za - www.saha.org.za

Trustees: D Ntsebeza (Chairperson), L Callinicos, V Harris, S Hatang, H Kleinschmidt, MN Niefertagodien, P Pigou, M Powell, C Rassool, R Saleh, A Manion (ex officio)

Non-Profit Trust No. 2522/93 - 031-807-NPO



TRUSTEE	SIGNATURE	DATE
DUMISA NTSEBEZA ID: 4910315121083		01/10/2014
PIERS PIGOU ID: 6705305221184		27 Sept 2014
MARLENE POWELL ID: 5907270095087		27 Sep 2014
CIRAJ RASSOOL ID: 6112275648084		28 SEPT 2014
RAZIA SALEH ID: 6208080199089		27 Sep 2014
SPIRIDOULA WEBSTER (also known as Luli Callinicos) ID: 3611100106088		2 December 2014

Box 31719, Braamfontein 2017, Johannesburg - Tel: +27 (0) 11 718 2560 - Fax: +27 (0) 865 001 600 - Email: info@saha.org.za - www.saha.org.za

Trustees: D Ntsebeza (Chairperson), L Callinicos, V Harris, S Hatang, H Kleinschmidt, MN Nlefatgodien, P Pigou, M Powell, C Rassool, R Saleh, A Maniqn (ex officio)

Non-Profit Trust No. 2522/93 - 031-807-NPO

CMK 2
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SOUTH AFRICAN
HISTORY ARCHIVE

“SAHA”

DEED OF TRUST

Amended by resolution 28 October 2002
Further amended by resolution 09 April 2011
Further amended by resolution 24 November 2012

SAHA Deed of Trust – as amended by resolution 24 November 2012 – Page 1

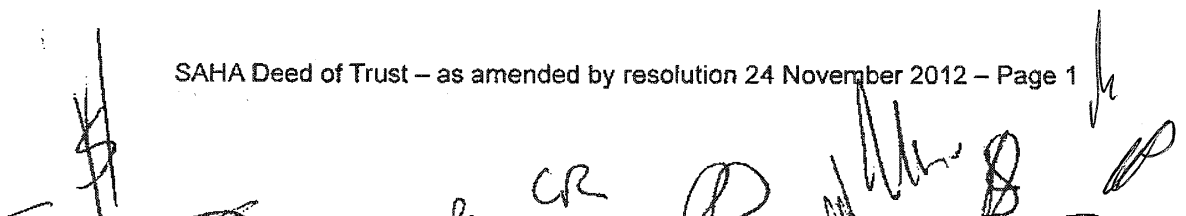
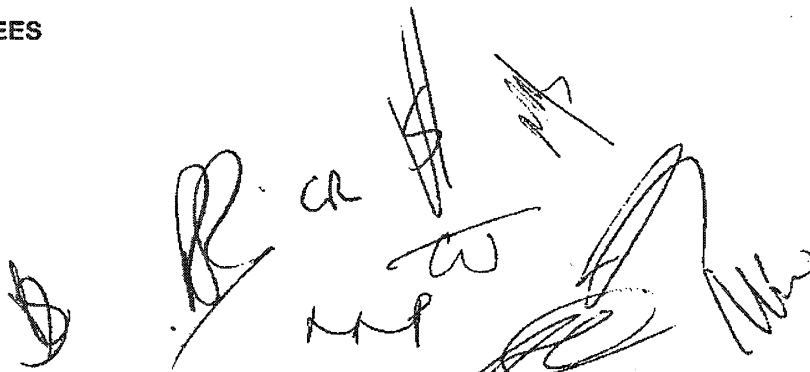
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1. ORIGINAL MOTIVATION

- 1.1 There is a need to collect, preserve and catalogue materials of historical and contemporary political, social, economic and culture importance.
- 1.2 There is a need to promote awareness of the importance of preserving records of contemporary events of historical significance.
- 1.3 There is a need to make the above-mentioned materials accessible to the public, to historians and to researchers.
- 1.4 There is a need to promote public awareness of recent historical events.

2. ESTABLISHMENT OF A TRUST

- 2.1 A trust is hereby constituted to be known as the South African History Archive ("SAHA") Trust for the purpose herein set out and otherwise on the terms and conditions of this Trust Deed.
- 2.2 SAHA is a body corporate and has an identity and existence distinct from its members and office bearers.
- 2.3 SAHA continues to exist despite changes in the composition of its trustees and director.
- 2.4 Trustees or directors have no rights in the property or other assets of the organisation solely by virtue of holding those positions.

3. OBJECTIVES OF THE TRUST

- 3.1 The main objective of the Trust is to document, support and promote greater awareness of past and contemporary struggles for justice through archival practices and outreach, and the utilisation of access to information laws.
- 3.2 It is not the objective of the Trust to make a profit or gain and the income and assets of the Trust may not be distributed to any person save for the payment of reasonable remuneration for services actually rendered in furtherance of the objects of the Trust.

4. ANCILLARY OBJECTIVES OF THE TRUST

- 4.1. In furtherance of its primary objectives the Trust shall:
 - 4.1.1 Recapture lost and neglected histories;
 - 4.1.2 Record aspects of South African democracy in the making;
 - 4.1.3 Bring history out of the archives and into schools, universities and communities

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in new and innovative ways;

4.1.4 Extend the boundaries of freedom of information in South Africa;

4.1.5 Raise awareness, both nationally and internationally, of the role of archives and documentation in promoting and defending human rights.

5. GALA

5.1 It is recorded that in 1996 SAHA established the Gay and Lesbian Archives (GALA) as a project of SAHA.

5.2 In 2007, GALA formed a separate and independent trust. However, the work of SAHA and GALA remains closely aligned and the organisations continue to work in close collaboration.

6. INTERPRETATION

In this Deed, unless the context otherwise requires, words importing the singular shall include the plural. The following expressions used in this Deed shall have the meaning hereinafter assigned to them unless the context shall clearly otherwise require:

6.1 "Trust Fund" : shall mean the assets or funds held and administered by the Trustees from time to time, that is to say, the Trust capital together with donations and any additions or accruals thereto, including bequests from time to time from any sources and in any form.

6.2 "Trust Capital" : shall mean the capital of the Trust consisting of the Trust Fund and including that part of the net income which is not distributed and is accumulated as part of the capital after deducting:

6.2.1 the aggregate of the liabilities of the Trust, both actual and contingent, and

6.2.2 the sum of all provisions for depreciation, renewals or diminution in value of assets or for liabilities (actual or contingent) the amount of which cannot be determined with substantial accuracy.

6.3 "Fund Raising Act" : shall mean the Fund Raising Act 107 of 1978 as amended from time to time.

6.4 "Nonprofit Organisations Act" : shall mean the Nonprofit Organisations Act 71 of 1997 as amended from time to time.

6.5 "Income Tax Act" : shall mean the Income Tax Act 58 of 1962 as amended from time to time.

6.6 "Trust" : shall mean the Trust created under this Deed of Trust.

6.7 "Trustees" : shall mean the signatories to this Deed as Trustees and any other persons appointed to that office in terms of this Trust Deed from time to time for so long as they hold office as such, who shall be deemed to be members of the trust for all purposes

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under the Fund Raising Act and the Nonprofit Organisations Act.

7. THE AFFAIRS OF THE BUSINESS

7.1 The affairs and business of the Trust shall be conducted from Johannesburg.

8. TRUSTEES PROVISIONS

8.1 The parties listed in Annexure A of this Trust Deed were the first Trustees of the Trust;

8.2 The parties listed in Annexure B of this Trust Deed are the Trustees of the Trust at the date of amendment of this Trust Deed.

8.3 Upon the death, permanent incapacity, removal or resignation of anyone of the Trustees, the Trustees then remaining shall, as soon as possible, appoint another Trustee to the office of Trustee, which person shall be decided upon by the remaining Trustees as they in their sole and absolute discretion may determine, it being the intention of the parties hereto that there shall always be a minimum of 5 Trustees and not more than 15 Trustees of the Trust in office. Between 2 and 4 Trustees shall serve as members of the Management Committee, as nominated by the Trustees on an annual basis.

8.4 Where the death, permanent incapacity, removal or resignation of one of the Trustees results in the number of remaining Trustees being less than 5, those remaining Trustees may appoint a further Trustee in the manner outlined in clause 8.3 but may take no other action in relation to the operation of the Trust until such appointment has been made, restoring the number of Trustees to at least 5;

8.5 The Trustees shall at any time from time to time be entitled to accept the resignation of any other Trustee;

8.6 The Trustees shall at any time from time to time have unlimited power of co-option of further Trustees, subject to the maximum referred to in 8.3 above, which shall be exercised on such terms and conditions and for such period as they in their sole discretion may determine;

8.7 Any appointment, removal or resignation, delegation of powers or co-operation shall not be valid unless recorded in writing;

8.8 A Trustee shall vacate his/her office if:

8.8.1 he/she commits any Act of insolvency as defined in the insolvency law from time to time in force;

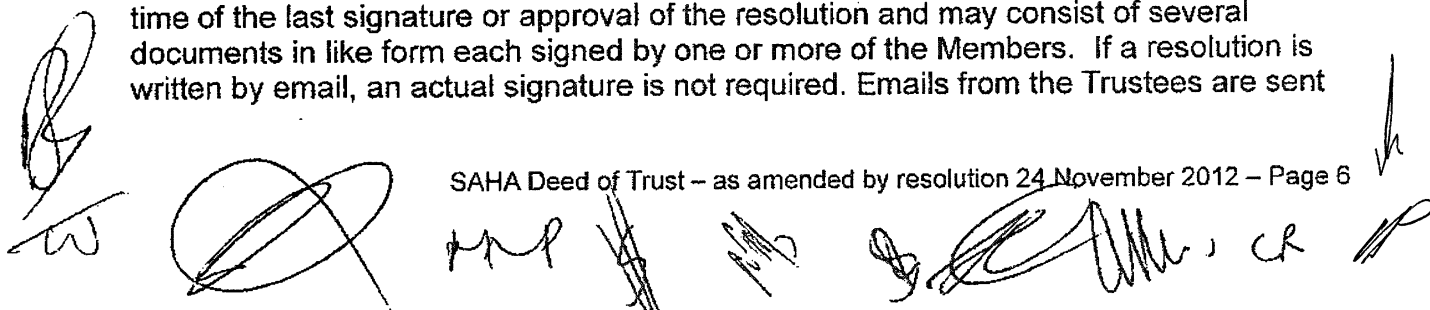
8.8.2 he/she becomes of unsound mind or is declared incapable of managing his/her own affairs;

8.8.3 he/she resigns his/her office by written notice to the other Trustees;

- 8.8.4 he/she fails to attend three (3) consecutive meetings of the Trustees without the leave of the remaining Trustees;
- 8.8.4 he/she is removed from office by the decision of the majority of the remaining Trustees after he/she has been given written notice of the intention of the remaining Trustees to remove him/her and given an opportunity to address the remaining Trustees or furnish them with reasons in writing why he/she should not be removed as a trustee.

9. PROCEEDINGS OF TRUSTEES

- 9.1 A quorum for a meeting of the Trustees shall be 50 per cent of the Trustees, at least one of whom shall be a member of the Management Committee. In the event of the meeting being inquorate thirty (30) minutes after the time of commencement, it shall stand adjourned to a date which all Trustees shall be notified of in writing, but which shall be not less than seven (7) days after the date of the inquorate meeting, and at such adjourned meeting all those Trustees present shall constitute a quorum.
- 9.2 Subject to the Trustees giving effect to the terms and conditions of this Deed, administering the Trust and its affairs, they shall adopt such procedures and take such administrative steps as they shall, from time to time, deem necessary and advisable including the appointment of a management committee from amongst themselves which shall be responsible for the disbursement of monies, application by criteria for such disbursement, reporting to funders on a quarterly basis, and control an administration of activities;
- 9.3 The Trustees shall meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, but not less than twice a year. The date and the place of the meetings shall be as determined by the Trustees. The Chairperson shall, however, have the power to call a meeting of the Trustees when in his or her opinion circumstances justify such a step and will be obliged to do so on receipt of a written request signed by not less than three (3) Trustees specifying the business to be transacted at such a meeting. Reasonable notice will be given to Trustees of all meetings of the Trustees, which notice may be given by letter, telegram, telex, telefax, electronic mail, or orally.
- 9.4 A notice dispatched to the last address of a Trustee as made known to the Secretary of the Trust when appointed shall be valid;
- 9.5 Decisions are made by majority vote indicated by way of a show of hands;
- 9.6 A resolution in writing signed or approved by other written means, such as by email, by majority vote is valid and effectual as if it had been passed at a meeting of the said Trustees and shall be noted at the next meeting. Such a resolution is constituted at the time of the last signature or approval of the resolution and may consist of several documents in like form each signed by one or more of the Members. If a resolution is written by email, an actual signature is not required. Emails from the Trustees are sent



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to the Director, who will then inform all the Trustees of the outcome of the resolution

- 9.7 The Trustees shall elect from amongst their number a chairperson who shall remain in office until he/she resigns as a Trustee or as chairperson or if the remaining Trustees remove him/her from office by resolution to that effect;
- 9.8 The Director shall provide written notice to the Director of Nonprofit Organisations of the names, physical business and residential addresses of the Trustees and Director of the Trust one month after any appointment or election of such persons, even if their appointment or election did not result in any changes to the persons occupying those positions, in accordance with section 18(1)(b) of the Nonprofit Organisations Act.
- 9.9 If the chairperson is absent from any meeting the remaining Trustees shall elect a chairperson for the purposes of that meeting;

10 DISPENSATION OF SECURITY

- 10.1 The Trustees or any of them shall not be required to furnish security for any reason or under any circumstances whatsoever for their duties as such and accordingly no person hereby or subsequently appointed or co-opted or to whom powers are delegated shall be required to furnish security to any state or any official under the provisions of any law which may now or which may in the future be in force. Insofar as it may be necessary, the said state or other official is hereby directed to dispense with the requirement that any Trustee or subsequent Trustees shall furnish security in terms of the Trust Property Control Act or any other law.
- 10.2 If despite the provisions of clause 10.1 hereof, security is lawfully required to be furnished, then the costs of providing the same shall be borne by the Trust.

11 VESTING, COLLECTION, UTILISATION OF FUNDS AND CONTRIBUTIONS

- 11.1 The Trustees are hereby empowered to accept for the purposes of the Trust any gift, bequest or payment of any nature whatsoever from any person which may be given or paid to them with the intention that it form part of the Trust Fund. Any assets so accepted shall be administered and dealt with subject to the terms of this Deed of Trust. All donations of the Trust shall be irrevocable and subject to the terms and conditions of the Trust.
- 11.2 Contributions may be collected in and from any portion of the Republic of South Africa and outside its borders provided that the contributions from outside the Republic of South Africa shall be actually received in the Republic of South Africa.
- 11.3 The funds of the Trust shall be utilised solely for investment or for the objects for which it has been established.

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11.4 No portion of the income or assets of the Trust shall accrue for the benefit of the Trustees, office bearers, or their relatives or any employee but nothing herein before contained shall limit the right of the trustees to be reimbursed in respect of any reasonable expenses incurred on behalf of the Trust or to be paid a reasonable remuneration for any services rendered on behalf of the Trust including under any contract of employment.

12. TAX ISSUES

If the Commissioner approves SAHA as a "public benefit organisation" , and for as long as such status is renewed, then the SAHA Trust will-

12.1 in the year of assessment preceding the year of assessment in which the donation is received, distribute at least 75% of its S18A (of the Income Tax Act, 1962) donations received;

12.2 issue a receipt for the donation on which the following details are provided-

12.2.1 the reference number issued by the Commissioner;

12.2.2 the name and address of the SAHA Trust;

12.2.3 the date of receipt of the donation;

12.2.4 the amount of the donation

12.2.5 the name and address of the donor;

12.2.6 a certificate to the effect that the receipt is issued for purposes of Section 18A of the Income Tax Act, 1962 and that the donation has been or will be used exclusively for the object of the SAHA Trust;

12.3 on dissolution transfer its assets to any similar approved public benefit organisations;

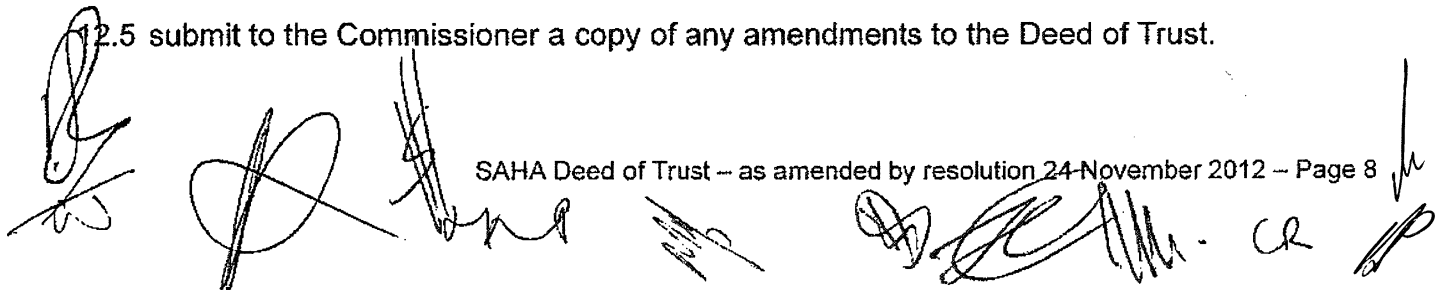
12.4 not accept any donation-

12.4.1 which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and;

12.4.2 conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A; or

12.4.3 in circumstances where a donor has imposed conditions which could enable that donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation,

12.5 submit to the Commissioner a copy of any amendments to the Deed of Trust.

 SAHA Deed of Trust -- as amended by resolution 24-November 2012 -- Page 8

13 DUTIES OF TRUSTEES

- 13.1 The Director of SAHA and the members of the Management Committee accept the fiduciary responsibility of the organisation. In addition to any duties imposed upon them under law enforced from time to time, the Trustees shall have the following duties:
- 13.1.1 The Trustees shall appoint a person as Director. The Director shall have responsibility for the day to day management of the accounts of the Trust and such other responsibilities as delegated to the Director from time to time by the Trust. The Director shall be at all times subject to the direction and control of the Management Committee in the performance of their duties.
- 13.1.2 The Trustees shall take and maintain written minutes of the meetings held pursuant to the provisions of clause 9 above. An official minute book shall be retained at the Trust's principal office.
- 13.1.3 The Trustees shall, at the expense of the Trust, cause proper books of accounts to be kept, which books of account together with all other papers and documents connected with or relating to the Trust shall be kept as such place as may be agreed upon by the Trustees.
- 13.1.4 The Trustees at the expense of the Trust shall be entitled to cause accounts of the Trust to be audited by an auditor appointed by the Trustees from time to time, which auditor shall be charged with drawing up the financial statements of the Trust at the end of each and every year. The first financial statements of the Trust shall be prepared on 31 December following the date of resignation of this Trust Deed in terms of the Trust Property Control Act. The auditor may be one of the Trustees or a firm of which he is a member and he/she or his/her firm may charge their reasonable fee for such services.
- 13.1.5 The financial statement shall be prepared as at the last day of each succeeding year for this purpose every year shall commence on 1 January and shall end on 31 December of each succeeding year.
- 13.1.6 All monies received on behalf of the Trust shall be paid by the Trustees into a banking account or other account maintained by the Trustees at a registered commercial bank or building society or other financial institution in terms of the Financial Institutions (Investment of Funds) Act 1984 and all payments made on behalf of the Trust shall be drawn from such account. All withdrawals may be made on the signature of such persons as the Trustees may determine from time to time.
- 13.1.7 All charges, expenses and disbursements including reasonable travelling expenses reasonably incurred by the Trustees in or arising from their administration of the Trust (including the costs of attending meetings of the Trust) shall be a first charge on the income of the Trust and the Trust Assets and shall be paid on demand.

14 INDEMNIFICATION OF THE TRUSTEES

- 14.1. Subject to the foregoing a Trustee shall in performance of his/her duties and in the exercise of his/her power act with the care, diligence and skill which can reasonably be expected of a person who manages the affairs of another;
- 14.2 No Trustee shall be liable for any loss of the Trust arising by reason of any investment made on behalf of the Trust whether authorised in terms of the Trust Deed or not, or for negligence or fraud of any agent employed by such Trustee (although the employment of such agent was not strictly necessary or expedient) , or by any other Trustee or by reason of any mistake or omission made in good faith by any Trustee hereof or by reason of any matter or thing whosoever, except as is occasions by such Trustees own personal, wilful act of dishonesty.
- 14.3 The Trustees shall be indemnified out of the Trust Assets against all claims or demands of whatever nature that may be made upon them arising out of the exercise, purported exercise or omission to exercise any of the powers conferred upon them by this Deed of Trust. Nothing herein contained shall be deemed to exempt a Trustee from or indemnify him/her against liability for breach of trust where he/she failed to show the degree of care diligence and skill referred to above.

15 TRADING ACTIVITY

- 15.1 SAHA will not carry on any business undertaking or trading activity, otherwise than to the extent that-
- 15.1.1 if the undertaking or activity—
- 15.1.1.1. is integral and directly related to the sole or principal object of that public benefit organisation as contemplated in paragraph (b) of the definition of "public benefit organisation " in section 30 of the Income Tax Act 1962 (as amended)¹;
- 15.1.1.2. is carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost; and
- 15.1.1.3. does not result in unfair competition in relation to taxable entities;
- 15.1.2 if the undertaking or activity is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation;
- 15.1.3 if the undertaking or activity is approved by the Minister by notice in the *Gazette*, having regard to—
- 15.1.3.1 the scope and benevolent nature of the undertaking or activity;
- 15.1.3.2 the direct connection and interrelationship of the undertaking or

¹ <http://www.sars.gov.za/lnb/mylnb.asp?/jilc/kilc/alrg/ulrg/vlrg/72k0a#ag>

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- activity with the sole or principal object of the public benefit organisation;
- 15.1.3.3 the profitability of the undertaking or activity; and
- 15.1.3.4 the level of economic distortion that may be caused by the tax exempt status of the public benefit organisation carrying out the undertaking or activity; or
- 15.1.4 other than an undertaking or activity in respect of which item (aa) , (bb) or (cc) applies and do not exceed such amount as specified under the Income Tax Act 1962 or applicable legislation from time to time'

16. POWERS OF TRUSTEES

- 16.1 The Trustees in their discretion shall have plenary powers to perform all acts and execute all documents relevant to the carrying out of the objects of the Trust and the administration thereof. Without derogating from the generality of the foregoing, the Trustees shall have the power to open and operate any banking account and/or building society account and to draw and issue cheques and promissory notes and to endorse any of the same for collection. The Trustees shall determine the manner of operating the banking or other accounts of the Trust.
- 16.2 The Trustees shall be subject to a majority resolution, have the power to acquire, lease, renovate, restore immovable property in pursuance of the objectives of the Trust. In addition, to buy or sell and transfer Trust Assets and invest the proceeds (including dividends accruing on the Trust Fund) and sign and execute any agreement in regard thereto provided that the Trustees shall not have the power to:
- 16.2.1 enter into any transactions of a patently speculative nature in relation to property;
- 16.2.2 carry on business including inter alia ordinary trading operations in the commercial sense as well as the administration of any immovable property acquired by the Trust.
- 16.3 The Trustees shall have the power to:
- 16.3.1 hold the whole or any part of the Trust Fund or any investments made by them from time to time during the administration of the Trust in their own names or in the name of any person or institution which is nominated by them from time to time for that purpose or, in the name of the Trust; and
- 16.3.2 exercise the voting power attached to any share, stock or debenture in such manner as they may deem fit, exercise and take up or realise any rights of conversion or subscription appertaining to any or debenture forming part of the Trust;
- 16.3.3 From time to time to borrow such monies on such terms and conditions as they

deem fit:

- 16.3.3.1 for the payment of any liability (including taxes payable in respect of the Trust); or
- 16.3.3.2 which may be required from time to time for the protection or better or further investment of all or any of the Trust Assets; or
- 16.3.3.3 generally for such other purposes in connection with all or any of the assets forming part of the Trust Fund.
- 16.3.4 Invest any funds that are not required for immediate use of the Trust, provided that investments may only be made in:
- 16.3.4.1 a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984;
- 16.3.4.2 securities listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985;
- 16.3.4.3 in other prudent investments in financial instruments and assets as the Commissioner may determine after consultation with the Executive Officer of the Financial Services Board and Director of Non-Profit Organisations.
- 16.3.5 Obtain such legal advice from time to time as the said Trustees in their discretion require and in which event all costs of and in connection therewith shall be borne by the Trust.
- 16.3.6 Engage the service of financial advisers, brokers, property administrators, consultants, accountants, auditors, architects and experts of all kinds and to make payment of their fees.
- 16.3.7 Institute or defend any proceedings in any court of law or arbitration proceedings in the name of the Trust.
- 16.3.8 Decide (which decision shall be final and binding and shall not be subject to dispute or challenge) whether any monies or assets received by them from time to time as part of the Trust Assets constitutes "capital" or "income" and for the purpose they shall be entitled to make such apportionment in the Trust's account.
- 16.3.9 Apply all or any of the Trust assets or monies held by them towards payment of any tax levied on the Trust or the income of the Trust, if any.
- 16.3.10 Leave the capital of the Trust or any part thereof invested as it may be when it is handed over to them.
- 16.3.11 Sell, realise, call in or convert into cash so much of the Trust assets as the Trustees may from time to time deem fit and make such further investments of the same in such form and in such manner as the Trustees may determine from time

to time vary any of such investments as the Trustees may determine.

- 16.3.12 Enter into contracts in the name of the Trust in furtherance of the interests of the Trust and to nominate one or more of them or to delegate their authority to any person selected by them for the purpose of management of the Trust and the execution of all documents or other activities of any nature relating to the carrying out of the purposes of this Trust, including documents in connection with the investment and realisation of the Trust assets which realisation shall be in whatever manner they deem fit.
- 16.3.13 Permit any premises owned by the Trust to be occupied free of rental or for a rental to be determined by the Trustees.
- 16.3.14 Engage and discharge employees and to set their terms and conditions of employment.
- 16.3.15 Do all things necessary to achieve the objects of the Trust.

17 BOOKS OF ACCOUNTS, RECORDS OR OTHER DOCUMENTS

- 17.1 Any books of account, records or other documents must be retained and preserved by SAHA for a period of 4 years –
- 17.1.1 after the date of the last entry in any book; or
- 17.1.2 after completion of financial transaction, acts or operations; and
- 17.2 Trustee may not without the written consent of the Master destroy any document which serves as proof of an investment, safe custody, control, administration, alienation or distribution of SAHA property before the expiry of a period of five years from the termination of the SAHA.
- 17.3 The Trust is to keep accounting records of its income, expenditure, assets and liabilities, and
- 17.3.1 Within six month after the end of its financial year, draw up financial statements, which must include at least
- 17.3.1.1 A statement of income and expenditure for that financial year; and
- 17.3.1.2 A balance sheet showing its assets, liabilities and financial position as at the end of that financial year.
- 17.4 Within two months after drawing up its financial statements, the Trust must arrange for a written report to be compiled by an accounting officer and submitted to the Trustees stating whether or not-
- 17.4.1 The financial statements of the organisation are consistent with its accounting records;
- 17.4.2 The accounting policies of the organisation are appropriate and have been appropriately applied in the preparation of the financial statements;

and,
 17.4.3 The Trust has complied with the provisions of the Nonprofit Organisations Act and this Deed of Trust which relate to financial matters.

- 17.5 The Trust must, in writing, provide the Director of Nonprofit Organisations with
 17.5.1 a narrative report of its activities together with its financial statements and the accounting officer's report as set out in clause 17.4 above, within nine months after the end of its financial year; and
 17.5.2 a physical address in the Republic for service of documents and notices, and advice of any change of such address.

18 AMENDMENTS

- 18.1 A Resolution approved by at least two thirds of the Trustees then in office shall be required for any amendment to this Deed of Trust.
 18.2 Any amendments to this deed of Trust shall be submitted to the Commissioner of the South African Revenue Service.
 18.3 In addition, the Trust must send to the Director of Nonprofit Organisations a copy of the resolution and a certificate signed by a duly authorised office-bearer stating that the resolution complies with its constitution and all relevant laws.

19. TERMINATION OF TRUST AND DISTRIBUTION OF ASSETS

- 19.1 The Trust shall continue indefinitely but the Trustees shall have the right, in their sole and absolute discretion passed by two-thirds of the Trustees, to terminate the Trust.
 19.2 Upon its termination the remaining assets of the Trust, after satisfaction of its liabilities shall be given or transferred to one or more trusts or associations not for gain with objects similar to the objects of the Trust which have been approved in terms of section 30 of the Income Tax Act, 1962.
 19.3 The Trust must provide the Director of Nonprofit Organisations with at least two months' written notice of the intention of the Trustees to terminate the Trust.

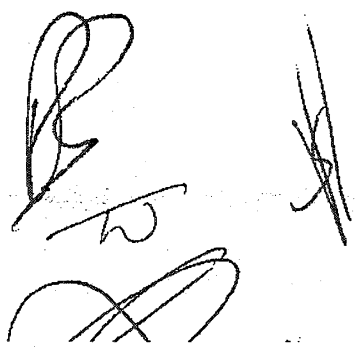
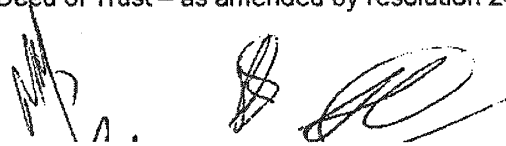
20 DISPUTES

Should any question arise as to whether the interpretation of this Deed or any of the provisions hereof as to the true construction thereof or as to the administration of the Trust or otherwise howsoever, the Trustees shall have the power to decide such questions either acting on their own judgement or upon the advice of attorneys and/or counsel and any such decisions shall be final and binding on all parties affected thereby and shall be carried into effect by them.

SAHA Deed of Trust – as amended by resolution 24 November 2012 – Page 14

21 COSTS

All costs of and incidental to the negotiations and finalisation of this Deed of Trust and its registration in terms of the Trust Property Control Act shall be paid by the Trust out of the Trust assets.

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ANNEXURE "A" : ORIGINAL TRUSTEES

HORST GERHARD HERMANN KLEINSCHMIDT
(BORN: 17/10/1945)

AND

SUSAN J BOOYSEN
(born: 17/9/1954)

AND

JEAN DE LA HARPE
(born: 3/9/1960)

AND

GIBSON THEMBA SIRAYI
(born: 12/10/1953)

AND

SAM MAHOSHA MKHABELA
(born: 23/10/1960)

AND

LULI CALLINICOS
(born: 10/11/1936)

AND

MICHELE PICKOVER
(born: 1/8/1959)

AND

NOEL FRANCIS STOTT
(born: 28/12/1958)

AND

JOHANNES MAFODI MANAMA
(born: 16/3/1949)

Handwritten signatures of the trustees: Horst Gerhardt Hermann Kleinschmidt, Susan J Booysen, Jean de la Harpe, Gibson Themba Sirayi, Sam Mahosha Mkhabela, Luli Callinicos, Michele Pickover, Noel Francis Stott, and Johannes Mafodi Manama.

APPENDIX B: CURRENT TRUSTEES

HORST GERHARD HERMANN KLEINSCHMIDT

(born: 17/10/1945)

and

SPIRIDOULA WEBSTER (also known as LULI CALLINICOS)

(born: 10/11/1936)

and

MARLENE MERCER POWELL

(born: 07/27/1959)

and

DUMISA BUHLE NTSEBEZA

(born 31/10/1949)

and

CIRAJ SHAHID RASSOOL

(born 27/12/1961)

and

MOHAMED NOOR NIEFTACODIEN

(born 25/10/1964)

and

RAZIA SALEH

(born 08/08/1962)

and

ANTHONY ANDREW MANION


(born 13/04/1976)

Signature: 

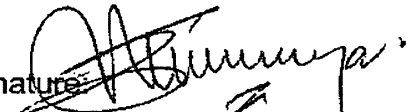
Date: 3.4.2014.

Signature: 


Date: 6.12.2013

Signature: 

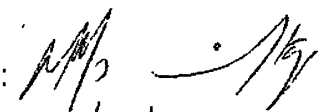
Date: 07/12/2013

Signature: 


Date: 07/12/2013

Signature: 


Date: 07/04/2014

Signature: 

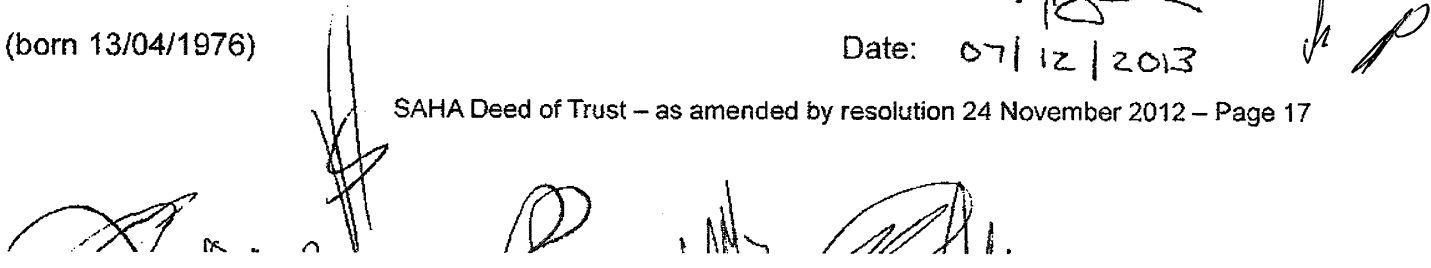
Date: 15/01/14

Signature: 

Date: 15/01/2014

Signature: 

Date: 07/12/2013



and

VERNE SHELDON HARRIS

(born 21/04/1958)

and

PIERS ASHLEY PIGOUE

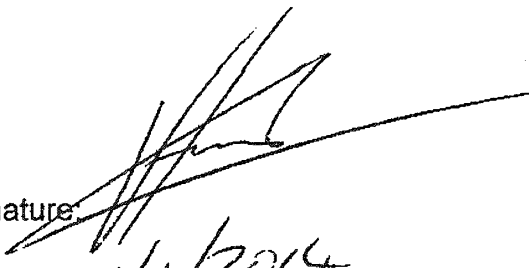
(born 30/05/1967)

and


SELLO KOOS HATANG – 7504285846089

(born 28/04/1975)

(hereinafter collectively referred to as "the Trustees")

Signature: 

Date: 15/11/2014

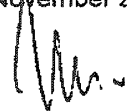
Signature: 

Date: 07/12/2013

Signature: 

Date: 14/01/2014





CMK 3
66

FORM A
REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY
(Section 18 (1) of the Promotion of Access to Information
Act, 2000
(Act No. 2 of 2000)
[Regulation 2]

FOR DEPARTMENTAL USE

Reference number: _____

Request received

by: _____

(state rank, name and surname of information officer/deputy information officer) on
_____ (date) at _____ (place).

Request fee (if any): R _____

Deposit fee (if any): R _____

Access fee: R _____

SIGNATURE OF INFORMATION
OFFICER/DEPUTY
INFORMATION OFFICER

A. Particulars of public body

The Information Officer/Deputy Information Officer:

Lt. Col E. Strydom

Private Bag X161

- Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
- If the provided space is inadequate please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios.**

- Description of record or relevant part of the record:

Records archived by the Department of Defence on behalf of the South African Defence Force. These records set out in **Annexure A** include but are not limited to the following archive groups:

- Military intelligence
- Military budgets
- Operations by Chief of Staff

Please see **Annexure A** attached herewith.

- Reference number, if available:
- Any further particulars of record:

E. Fees

- A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- You will be notified of the amount required to be paid as the request fee.
- The **fee payable for access** to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability: _____

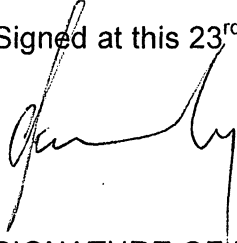
Form in which record is required: _____

Mark the appropriate box with an "X".

How would you prefer to be informed of the decision regarding your request for access to the record?

IN WRITING.

Signed at this 23rd of August 2013.



SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE

Catherine Kennedy

South African History Archive (SAHA)



Serial No	Box No	File Reference	File Description	Vol	Period
	a	b	c	d	e
ARCHIVE GROUP: MILITARY INTELLIGENCE / AI Group 30 (CONF, SEC & TOP SEC)					
1.	299	Afd Inl/516/4/5/7	Inligtingstelsels Argivering Rekenaardokumentasie		26/02/1991- 13/07/1992
2.	299	Afd Inl/516/4/5/7/2	Argivering Frag		18/06/1991- 24/02/1992
3.	299	Afd Inl/516/4/5/7/2	Argivering		01/10/1983 – 10/01/1992
ARCHIVE GROUP: MILITARY INTELLIGENCE / AI Group 30 Vol 2					
4.	321	Afd Inl/521/3/6/2/12/1	Projekte Kontrole Komitee	11	25/09/1992 – 09/10/1992
5.	321	Afd Inl/521/3/6/2/12/1	Projekte Kontrole Komitee	12	1992 Okt 25 – 1992 Nov 04
6.	322	Afd Inl/521/3/6/2/12/1	Projekte Kontrole Komitee	13	1992 Nov 11 – 1992 Des 07
7.	322	Afd Inl/521/3/6/2/12/1	Projekte Kontrole Komitee	14	1992 Nov 23 – 1992 Nov 27
8.	322	Afd Inl/521/3/6/2/12/1	Projekte Kontrole Komitee	15	1993 Feb 02 – 1993 Feb 17
9.	322	Afd Inl/521/3/6/2/12/1	Projekte Kontrole Komitee	16	1993 Feb 25 – 1993 Apr 27
10.	322	Afd Inl/521/3/6/2/12/1	Projekte Kontrole Komitee	17	1991 Des 14 – 1993 Jun 21
11.	349	Afd Inl/105/11/16	Buitelandse Diens: Israel	7	1988 Des 02 – 1991 Jul 01
12.	349	Afd Inl/105/11/16	Buitelandse Diens: Israel	8	1991 Jul 17 – 1994 Feb 18
13.	409	AFD INL/203/2/18/1	Insameling Van Inl: Maandverslae Switzerland	1	1991 MEI 16 – 1992 MEI 18
14.	409	AFD INL/203/2/18/1	Insameling Van Inl: Maandverslae Switzerland	1	1992 Jun 30 – 1993 Apr 21
15.	409	AFD INL/203/2/18/1	Insameling Van Inl: Maandverslae Switzerland	1	1993 Jul 08 – 1993 Des 01

16.	509	AMI 505/19/3	AMI Geheime Fondse (Beleid)	3	10/04/90-5/06/90
17.	510	AFD INT 505/19/5	Spesiale Fondse Oorskot Kontrolle	1	27/7/89-31/07/89
18.	510	AFD INT/506/3	Ouditering Interne Ouditverslae	7	14/02/90-12/06/91
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19.	51	505/1/1	Verdedigingsinkomste en besteding: Verslae en opgawes: Appropriasiestaat	1	01/03/78 – 10/12/87
20.	52	505/2	Verdedigingsinkomste en besteding: Rekeninge	3	16/11/84 – 30/05/86
21.	53	505/6	Verdedigingsinkomste en besteding: Eise	1	18/06/79 – 16/06/86
22.	54	505/8/3	Verdedigingsinkomste en besteding: Hantering: Verliese	1	Aug 79 – 20/06/87
23.	159	406/4	Beheer van Voorraad-Beskadiging en Verlies van Staatseiendom	5	28/2/85 – 11/3/86
24.	159	406/4	Beheer van Voorraad-Beskadiging en Verlies van Staatseiendom	6	11/3/86 – 15/9/86
25.	159	406/4	Beheer van Voorraad-Beskadiging en Verlies van Staatseiendom	7	2/9/86 – 28/1/87
26.	159	406/17/26/86	Raad van Ondersoek 26/86	1	16/9/86 – 2/12/86
27.	160	406/17/26/86	Raad van Ondersoek 26/86	1	16/10/86 – 24/11/86
28.	160	501/4/7	Bevel en Beheer – Doelwitte van die SAW - HSI	11	22/3/85 – 22/3/86
29.	186	520/3/4	Besoeke en Bewegings van persone, vliegtuie en vaartuie – Besoeke aan die Buiteland – SAW/Krygkor Persone	48	20/10/87 – 8/12/87
30.	186	520/3/4/2	Besoeke en Bewegings van persone, vliegtuie en vaartuie – Besoeke aan die Buiteland – SAW/Krygkor Personeel – VSA	7	19/8/85 – 1/7/86

31.	186	520/3/4/2	Besoeke en Bewegings van persone, vliegtuie en vaartuie – Besoeke aan die Buiteland – SAW/Krygkor Personeel – VSA	8	7/7/86 – 12/10/87
32.	186	520/3/4/3	Besoeke en Bewegings van persone, vliegtuie en vaartuie – Besoeke aan die Buiteland – SAW/Krygkor Personeel – Frankryk	5	5/12/85 – 19/6/87
33.	186	520/3/4/4	Besoeke en Bewegings van persone, vliegtuie en vaartuie – Besoeke aan die Buiteland – SAW/Krygkor Personeel	6	5/6/85 – 2/7-87
34.	187	520/3/4/6	Besoeke en Bewegings van persone, vliegtuie en vaartuie – Besoeke aan die Buiteland – SAW/Krygkor Personeel – Israel	25	14/6/85-25/9/85
35.	187	520/3/4/6	Besoeke en Bewegings van persone, vliegtuie en vaartuie – Besoeke aan die Buiteland – SAW/Krygkor Personeel – Israel	26	27/9/85 – 30/12/85
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36.	189	520/3/4/25	Besoeke en Bewegings van persone, vliegtuie en vaartuie – Besoeke aan die Buiteland – SAW/Krygkor Personeel – Taiwan	5	26/11/84 – 2/4/86
37.	189	520/3/4/25	Besoeke en Bewegings van persone, vliegtuie en vaartuie – Besoeke aan die Buiteland – SAW/Krygkor Personeel – Taiwan	6	7/4/86 – 13/4/87
38.	189	520/3/4/43	Besoeke en Bewegings van persone, vliegtuie en vaartuie – Besoeke aan die Buiteland – SAW/Krygkorlede – Swaziland	1	16/6/82 – 30/9/87
39.	191	520/5/1	Reisdokumente Paspoorte en Visums (Koerier)	4	28/7/83 – 2/10/87
40.	191	521/2/1/36	Komitees, Kommissies en Rade-Departementele	25	10/12/84 – 25/4/85

			Komitees-aan-Stellings en Samestellings – Koördinerende Inligtingskomitee		
ARCHIVE GROUP: AMI Onder-Afdeling Inligting Operasies GP 26					
41.	13	311/1/86	Hulpverlening en samewerking met Kongo Br.	1	2/12/87 – 21/8/89
42.	14	328/1/B	Komops-Beleid	4	16/06/88-01/10/99
43.	14	328/2/N150	Kommunikasie Operasies – Projek Viseur	1	17/09/87-30/08/89
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44.	Pak no 29 / Houer 792	302/6	SAW Proj	3	5/3/91 – 9/7/91
45.	Pak no 29 / Houer 793	302/6/B	SAW Proj : Beleid	1	22/7/85 – 14/2/86
46.	29	302/6/A31	SAW Proj: Proj Ablaze	1	28/10/80 – 19/2/86
47.	29	302/6/A80	SAW Proj : Proj Atlanta	1	22/7/87 – 19/11/86
48.	29	302/6/A81	SAW Project : Proj Afbreek	1	14/1/85 – 11/6/85
49.	30	302/6/A163	SAW Proj : Proj Aquila	1	23/8/85 – 10/7/89
50.	30	302/6/A164	SAW Proj : Proj Argas	1	15/7/85 – 6/1/86
51.	30	302/6/B5	SAW Proj : Proj BLENNY	1	14/6/77 – 18/2/82
52.	30	302/6/B93	SAW SAW Proj : Proj BRAAMBOS	1	20/12/83 – 3/7/87
53.	30	302/6/B127	SAW Proj : Proj BRAHMAN	1	3/6/83 – 22/12/86
54.	30 HOUER 794	302/6/B150	SAW Proj : Proj BETHEL	1	19/8/87 – 19/8/87
55.	30	392/6/B177	SAW Proj : Proj PROJEKTE	1	12/4/85 – 12/11/85
56.	30 HOUER 794	302/6/C34	SAW Proj : Proj CHATEAU	1	4/7/77 – 11/11/85

57.	31	392/6/C129	SAW Proj : Proj CENTURO	1	6/5/83 – 14/5/86
58.	31	302/6/C132	SAW Proj : Proj CERES	1	17/8/83 – 10/2/87
59.	31 HOUER 795	302/6/C154	SAW Proj : Proj CAFTAN	1	26/9/82 – 29/1/87
60.	31	302/6/C232	SAW Proj : Proj CATALINA	1	2/10/86 – 31/1/87
61.	31	302/6/Dingby	SAW Proj : Proj DINGBY	1	13/2/85 – 29/7/87
62.	31	302/6/D68	SAW Proj : Proj DELFT	1	27/3/85 – 23/8/85
63.	31	302/6/D106	SAW Proj : Proj DRAKE	1	30/3/85 – 30/8/85
64.	31	302/6/D451	SAW Proj : Proj DELANY	1	19/3/86 – 19/3/86
65.	32	302/6/E1	SAW Proj : Proj EBBEHOUT	1	30/7/76 – 30/12/82
66.	32	302/6/E17	SAW Proj : Proj ENERGY	1	3/8/82 – 5/6/87
67.	32	302/6/Fasti	SAW Proj : Proj FASTI	1	12/6/84 – 12/6/84
68.	32	302/6/G15	SAW Proj : Proj GEISHA	1	23/8/69 – 17/1/85
69.	32 houer 176	302/6/G62	SAW Proj : Proj GATE	1	27/8/82 – 3/4/85
70.	32	302/6/G62	SAW Proj : Proj GATE	1	12/4/85 – 28/6/85
71.	32	302/6/H36	SAW Proj : Proj HERDER	1	11/11/83 – 13/12/90
72.	32	302/6/H67	SAW Proj : Proj HARMONIE	1	30/3/85 – 10/4/85
73.	33	302/6/J10/5	SAW Proj : Proj JAPTRAP	5	19/9/80 – 5/1/84
74.	34	302/6/J10/5	SAW Proj : Proj JAPTRAP	6	31/1/84 – 22/3/85
75.	34	302/6/J10/5	SAW Proj : Proj JAPTRAP	7	7/9/84 – 20/5/87
76.	34 HOUER 799	302/6/J10/5	SAW Proj : Proj JAPTRAP	8	24/3/87 – 8/6/87
77.	34	302/6/J10/5	SAW Proj : Proj JAPTRAP	8	2/6/87 – 29/5/89
78.	35	302/6/J11	SAW Proj : Proj JAMPOT	1	4/8/80 – 4/8/80
79.	35 HOUER 799	302/6/J12	SAW Proj : Proj JONITOR	1	27/2/80 – 5/5/86
80.	35	302/6/J16	SAW Proj : Proj JAPSNOET	1	29/7/80 – 21/12/84

81.	35 HOUER 800	302/6/J16	SAW Proj : Proj JAPSNOET	2	11/12/85 – 22/7/88
82.	35	302/6/K18	SAW Proj : Proj KONTAK	1	20/10/77 – 18/6/85
83.	35	302/6/K18	SAW Proj : Proj KONTAK	1	Aanhangsel
84.	35	302/6/L17	SAW Proj : Proj LEMBUS	1	Aanhangsel
85.	36 houer 801	302/6/L53	SAW Proj : Proj LUMEEN	1	19/8/87
86.	36	302/6/N27	SAW Proj : Proj NELMA	1	14/9/84 – 20/7/88
87.	36	302/6/P26	SAW Proj : Proj POTTER	1	16/5/77 – 11/4/83
88.	36	302/6/P38	SAW Proj : Proj PULLET	1	11/7/85 – 11/2/89
89.	36	302/6/P74	SAW Proj : Proj PERKAAL	1	20/6/84 – 30/10/85
90.	36	302/6/P2000/64	SAW Proj : Projkte	1	12/11/82 – 12/11/82
91.	37	302/6/R6/5A	SAW Proj : Proj RENEGADE (Voorskot)	1	8/4/83 – 4/5/84
92.	37	302/6/R6/5A	SAW Proj : Proj RENEGADE (Voorskot)	1	20/6/84 – 14/2/85
93.	37 houer 957	302/6/R6/5A	SAW Proj : Proj RENEGADE (Voorskot)	10	29/8/86 – 27/3/87
94.	37	302/6/R14	SAW Proj : Proj RODENT	1	11/7/77 – Mrt 87
95.	37	302/6/R14	SAW Proj : Proj RODENT	2	6/6/83 – 17/6/87
96.	37 Houer 803	302/6/R22	SAW Proj : Proj BONZAI	1	28/1/85 – 8/2/85
97.	37	302/6/R24	SAW Proj : Proj RABA	1	19/2/85 – 12/2/85
98.	37	302/6/R33	SAW Proj : Proj RESSINA	1	28/5/85 – 10/2/86
99.	37	302/6/R50	SAW Proj : Proj RONDON	1	25/2/82 – 11/10/82
100	37	302/6/S134	SAW Proj : Proj SWARTBORD	1	1/8/84 – 30/9/85
101	37	302/6/T33	SAW Proj : Proj TROTS	1	6/8/82 – 27/10/82
102	38	302/6/T272	SAW Proj : Proj TEACUP	1	15/5/89 – 23/6/89

103	38	302/6/W25	SAW Proj : Proj WONDER	1	14/10/82 – 11/4/83
104	38	302/6/Y4	SAW Proj : Proj YSBERG	1	10/11/77 – 29/1/80
105	38 Houer 804	302/6/Y4	SAW Proj : Proj YSBERG	1	Aanhangsel
106	38	302/6/Y4	SAW Proj : Proj YSBERG	2	9/4/80 – 24/9/82
107	39	303/1	Strategiese belange	1	27/9/82 – 22/9/82
108	78 houer 353	505/1/3/3	Ouditering van SV Rekening	1	7/5/81 – 25/8/83
109	78	505/1/3/3	Ouditering van SV Rekening	2	14/9/83 – 29/5/85
110	79	505/1/3/3	Ouditering van SV Rekening	3	24/4/85 – 24/9/85
111	79	505/1/5	Verslae/opgawes: Openbare rekening	1	12/2/79 – 28/1/85
112	79	505/1/6/1	Verslae/opgawes: Dept statistiek	1	Jun 81 – Jun 81
113	79	505/2/3/7	Buitelandse Rekening: Portugal	1	4/9/80 – 4/9/80
114	79	505/2/3/16	Buitelandse Rekening: Israel	1	10/6/77 – 29/11/78
115	79 houer 854	505/5/1	Kontrakte: Verwante aangeleenthede	1	4/10/78 – 15/1/87
116	80	505/5/1/1	Wysiging tot nadeel van Staat	1	Mrt 81 – 25/11/87
117	81	505/6/1/6	Buitelandse eise: Portugal	1	18/2/87 – 18/3/87
118	81	505/6/1/7	Buitelandse eise: VSA	1	18/2/87 – 17/4/89
119	81	505/6/1/9	Buitelandse eise: Argentina	1	25/2/87 – 25/2/87
120	81	505/6/1/12	Wysiging van eise: Chile	1	23/7/86 – 17/4/89
121	81	505/6/1/13	Wysiging van eise: Sjina	1	8/2/84 – 17/4/89
122	81 houer 857	505/6/1/16	Buitelandse eise: Paraguay	1	8/9/80 – 17/4/89
123	81	505/6/1/18	Buitelandse eise: Israel	1	31/3/80 – 22/7/85

124	81	505/6/2/2	Buitelandse eise: Diverse Debiteure	1	16/3/82 – 8/2/85
125	134	521/3/10/1/1	Finansiele Adviesraad	5	28/8/86 – 7/2/91
126	135 Houer 934	522/4/7	Vergadering HSI	1	13/1/88 – 27/3/91
127	135	524/1/1	Stelselontwikkeling: Proj Broeksak	1	19/10/84 – 9/5/85
128	135	527/1	Finansiele Stelsel	1	6/6/83 – 19/9/86
129	135	528/1/1	Finansiele Stelsel Ontwikkeling	1	3/8/79 – 12/4/89
130	136	505/5/2/9	Kontrak: Infoplan	1	7/7/78 – 10/8/84
131	137	505/5/4/9/1	Kontrak: Prokura	1	13/8/87 – 7/12/87
132	137 houer 937	505/5/4/9/1	Kontrak: Prokura	1	18/9/84 – 12/9/85
133	137	505/5/4/9/1	Kontrak: SA Navy	1	Aanhangsel
134	138	505/5/5/36	Kontrakte: Mnre Baumgartner	1	28/10/83 – 10/7/84
135	150	506/3/2301 (50)	Interne Oudit: Nafco King Air	1	7/8/87 – 9/5/88
136	150	506/3/69525/2	Interne Oudit: Armscor	1	26/4/84 – 5/6/84
137	150	506/3/69525/3	Interne Oudit: Armscor	1	14/5/84 – 11/6/84
138	150	506/3/69525/7	Interne Oudit: Armscor	1	24/5/84 – 24/5/84
139	150	506/3/69525/8	Interne Oudit: Armscor	1	16/1/84 – 11/6/84
140	150	506/3/69525/9	Interne Oudit: Armscor	1	28/3/84 – 8/8/85
141	150	506/3/69525/10	Interne Oudit: Armscor	1	11/5/84 – 5/6/84
142	150	506/3/69525/11	Interne Oudit: Armscor	1	28/5/84 – 11/6/84
143	150	506/3/69525/12	Interne Oudit: Armscor	1	15/6/84 – 30/11/84
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144	236	302/6/17	Projek Anker	1	15/3/84 – 8/2/85
145	236	302/6/A122	Projek Allobar	1	16/4/84 – 16/4/84

146	236	302/6/B98	Projek Broeksak	1	21/9/82 – 14/12/84
147	236	302/6/C60	Projek Concorde	1	22/11/77 – 30/8/85
148	236	302/6/C132	Projek Ceres	1	23/11/83 – Aug 84
149	236	302/6/E1	Projek Ebbehout	1	25/5/84 – 12/1/87
150	236	302/6/G295	Projek Goofey	1	21/5/86 – 6/6/86
151	236	302/6/J10	Projek Japtrap	1	6/10/81 – 23/8/85
152	236	302/6/K18	Projek Kontrak	1	17/11/77 – 7/6/83
153	236	302/6/K18	Projek Parlette	1	29/1/82 – 1/2/82
154	236	302/6/P39	Projek Tuna	1	19/10/92 – 23/2/83
ARCHIVE GROUP: Chief of Staff Finance Gp4, Vol1					
155	97	HSF 311/2/35	Hulpverlening en Samewerking met ander Staatsdepartemente Kommissie vir Administrasie	1	19/9/80 – 14/8/89
156	98	HSF 311/6	Hulpverlening en Samewerking met Burgerlike Instansies	2	27/1/89 – 4/12/96
157	127	HSF 402/6	LOGistieke beplanning, navorsing en ontwikkeling standaardisasie van voorraad en uitrusting	1	31/8/79 – 25/7/90
158	127	HSF 402/7/B	LOGistiese beplanning, navorsing en ontwikkeling standarde en spesifikasies vir SAW voorraad en uitrusting	1	19/11/80 – 13/11/91
159	127	HSF 402/9/B	Navorsing en Ontwikkeling Beleid	1	8/9/86 – 23/1/91
160	127	HSF 402/10	LOGistieke Reeks Ontwerp en Ontwikkeling	1	29/05/89 – 29/05/89
161	181	HSF 504/2/B	Begrotings verdedigings prOgram Begroting Beleid	2	30/10/89 – 25/4/95
162	181	HSF 505/8/3/0889/7	Verlies van Staatsgeld KMDMT v Noord HK eenheid verlies R3712,00	-	14/4/95 – 30/4/97