

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
(NORTH GAUTENG, PRETORIA)

13/11/12

Case no: 7942/2007

In the matter between:

NATIONAL DIRECTOR OF PUBLIC
PROSECUTIONS

PLAINTIFF

AND

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED.
13/11/2012	Signature
Date	

NUANJAN LIU
X LIU
R KROGSCHEEPERS
Y LIU
J LING
J FENG
PEIWEN LIU

1ST DEFENDANT
2ND DEFENDANT
3RD DEFENDANT
4TH DEFENDANT
5TH DEFENDANT
6TH DEFENDANT
7TH DEFENDANT

JUDGMENT

BAQWA J

- [1] The genesis of this proceedings was an action by the NDPP under Chapter 6 of the Prevention of Organised Crime Act 121 of 1998 (POCA) with regard to certain property owned by the defendants. It was alleged by the NDPP that offences in terms of Schedule 1 of POCA had been committed and that the property in question was either an instrumentality in the commission of the crimes or constituted proceeds of crime. More specifically, a sum of R14, 179,81 which had been seized by the police was alleged to be the proceeds of crime with the rest the defendants' assets being instrumentalities in the commission of Schedule 1 offences.
- [2] On 9 March 2007 an order for the preservation of property in question was granted in terms of section 38 of POCA by my brother, the honourable Justice Preller against defendants in this action and others.
- [3] The defendants filed a notice of intention to defend the matter on 2 April 2007 in terms of section 39 of POCA to oppose the Chapter 6 proceedings. They subsequently launched an application for reconsideration of the preservation order on 19 April 2007.
- [4] The reconsideration application was however never heard because the NDPP served them with a forfeiture application on 4 July 2007. Upon the completion of the exchange of documents in the forfeiture application this court granted an order referring the matter to trial on 14 February 2008.

The parties

- [5] The plaintiff is the National Director of Public Prosecutions (NDPP) appointed in terms of section 179(1)(a) of the Constitution of the Republic of South Africa Act 108 Of 1996.
- [6] The first to the seventh defendants are the parties who sought to oppose the Chapter 6 proceedings and who are in the present action

seeking to exclude the seized assets from being included in a forfeiture order in terms of section 52(2) and section 52(2A) of POCA.

The issues to be decided

- [7] The first issue to be decided is whether to grant an order in terms of section 50 POCA of declaring forfeit to the state the property: Erf 569 Groblersdal Extension 8, title deed T136759/2002 and other assets which were seized in a police operation on 10 May 2006.
- [8] The second is to decide whether to exclude the said property from a forfeiture order in terms of section 52(2) or section 52(2)(A) of POCA.

The law

- [9] POCA prescribes two related but different processes regarding crimes committed in contravention thereof. the proceeds are outlined in Chapter 5 and Chapter 6 of the Act.
- [10] Chapter 5 deals with restraint applications pending criminal proceedings whilst Chapter 6 deals with civil forfeiture of property and is not conviction dependant.
- [11] The onus that the NDPP has to discharge is to prove that the property to be forfeited has been an instrument of crime committed in contravention of Schedule 1 of POCA or that it is the proceeds of crime. In the present case the NDPP submits that the cash seized was the proceeds of crime and that the other assets, namely, the property, the motor vehicles, and computers **etcetera** were instrumentalities of crime.
- [12] Pursuant to an application for a preservation order, interested parties may oppose same under section 39 and raise the innocent owner defence.

- [13] In forfeiture proceedings such as the current proceedings, interested parties may oppose the application and similarly raise the innocent owner defence. In essence, two proceedings take place at the same time but as distinct processes with a different onus. The NDPP seeks forfeiture in terms of section 48 of POCA whilst section 50 empowers the High Court to issue a forfeiture order.
- [14] Section 52(2) enables a defendant who wishes to exclude the property alleged to be proceeds of crime to oppose the forfeiture application. Section 52(2A) enables a defendant who wishes to exclude property alleged to have been instrumental in the commission of crime to oppose the forfeiture application.
- [15] I have made reference to Schedule 1 offences in terms of POCA and these are set out hereunder:

15.1. Section 7(a) of the National Gambling Act 7 of 2004.

- Elements:
- 15.1.1. To engage in, conduct or make available a gambling activity.
 - 15.1.2. If the outcome of that activity depends directly, indirectly, partially or entirely on a contingency.
 - 15.1.3. Related to an event or activity that is itself unlawful in terms of any law.

15.2. Section 57(1)(b) of the Lotteries Act 57 of 1997.

- Elements:
- 15.2.1. To conduct, facilitate, promote or derive any benefit from a lottery.
 - 15.2.1. Unless such lottery has been authorised.

15.3. Section 57(2)(g) of the Lotteries Act 57 of 1997.

- Elements:
- 15.3.1. To conduct, organise, promote or manage any scheme, plan, competition, arrangement, system, game or device
 - 15.3.2. Which directly or indirectly provides for betting, wagering, gambling;
 - 15.3.3. Or any outcome of any lottery unless authorised.

15.4. Section 77(b) of the Northern Province Casino and Gaming Act (Limpopo Province Gambling Act) 4 of 1996.

- Elements:
- 15.4.1 To conduct or permit any gambling activity;
 - 15.4.2. At any place under his or her control or his or her charge.
 - 15.4.3. Without the required licence.

The facts

- [16] The NDPP alleges that an illegal gambling operation existed as from October 2000 to May 2006. The enterprise consisted of a number of individuals who managed, were employed by or associated with the illegal activities of the enterprise. These operations were conducted without authority or a licence.
- [17] It is further alleged that the nerve centre of the enterprise was a house situated at corner of Bosbok and Steenbok Streets, Groblersdal whose street address was 3 Steenbok Street.
- [18] The nature of the illegal activities consisted of a lottery style game called fah fee which is a game for distributing prizes by lot or chance in which:
- 18.1. The participants chose a number from a series of thirty six numbers and wager an amount per number chosen.

18.2. The operator of the game chooses a winning number and the winners are paid a dividend according to the amount wagered on the chosen number.

- [19] The enterprise was run along a number of routes in and around Groblersdal with a number of gambling points along the routes.
- [20] At least seven vehicles were used to service the routes on a daily basis. At each gambling point there was a runner who took wagers and completed betting tickets indicating chosen numbers and amounts wagered per game.
- [22] Operators travelling in vehicles with drivers collected the money wagered and completed betting tickets along the routes, announced winning numbers and paid out the winning bets.
- [23] Thereafter, the vehicles returned to the Groblersdal house where money and the gambling tickets were received, counted and stored. The gambling data were captured on computers.
- [24] The capturing happened in a dedicated modified room equipped with five computers with printers which were used to print the captured gambling data. The house was also equipped to provide accommodation to members and employees of the enterprise.
- [25] The Groblersdal house was further equipped with security measures such as high walls around the property with an electric fence at the top and security cameras at the front and back doors.
- [26] On 9 May the following vehicles travelled from the Groblersdal house transporting operators to various gambling points where operators collected money and betting tickets from runners and made payouts: PYJ 816 GP; RBX 587 GP; PPZ 501 GP; RBB 899 GP; PPD 416 GP.

[27] On 10 May 2006 the following vehicles made similar trips to various gambling points: SFZ 863 GP and DHK 476 MP.

[28] During the evening of 10 May 2006 members of the South African Police Services entered and searched the premises and seized the following property:

28.1. Vehicles and cash

PPZ 501 GP; PPD 416 GP; RBB 899 GP; RBX 587 GP; DHK 476 MP; PYJ 816 GP; SFZ 863 GP.

28.2. Cash in the sum of R14, 179, 81.

28.3. Other assets

28.3.1. A money weighing scale

28.3.2. A sealing machine

28.3.3. Five computers with screens and keyboards

28.3.4. Five printers

[29] It is alleged that the Groblersdal house and the other property which was seized were instrumentalities in the commission of offences set out in Schedule 1 of POCA the particulars of which have been set out above.

[30] It is alleged that the first and fourth defendant associated themselves with the commission of offences by the enterprise by allowing the use of the Groblersdal house as a centre where the commission of the offences were coordinated, managed and run from and by allowing fourth defendant's vehicle to be used to facilitate the commission of the offences.

- [31] The fifth defendant was a partner in the enterprise and further associated himself with the illegal activities by allowing his vehicle to be used to facilitate the commission of the offences.
- [32] The seventh defendant managed the enterprise and associated herself with the illegal activities by travelling to the gambling points to collect money and betting tickets and by allowing her vehicles to be utilised in the illegal operations.
- [33] The Groblersdal house and the property which was seized by the South African Police is currently subject to a preservation of property order granted by this court on 9 March 2007 in terms of section 38 of POCA.
- [34] The defendants seek to exclude the property from forfeiture in terms of section 52(2) and section 52(2)(A) of POCA.

The evidence

- [35] The first witness for plaintiff was Mr Modiba who was a driver in the fah fee operation from the Groblersdal house from 2003 to 2006. He was arrested with other persons on 10 May 2006.
- [36] In his testimony he stated how he had travelled the same route on a daily basis. On that route there were 42 fah fee points which were visited twice a day from Monday to Friday and once on Saturdays. The route traversed 8 villages within which fah fee points were located.
- [37] The Groblersdal house was always the point of departure. It was also the house in which 6 drivers were accommodated in a garage together with 5 data capturing ladies who slept in a wendy house. 5 computers were set up in an outside room with printers for data capturing.

[38] Mr Modiba identified a man whose name was Winston as the ringleader of the operation though he was not living on the premises. During the rebuttal proceedings he physically identified Winston as the fourth defendant.

[39] He described the events at the fah fee points as follows:

A runner would come to the bakkie with a fah fee purse and betting tickets. A winning number would be provided by the Chinese passenger. In the event of some bets winning, a payout would take place and the runner would return to the fah fee point with the payout. The proceeds would be kept in the van if there was no winner.

[40] In the evening each of the seven vehicles would return and be parked at the Groblersdal house. The betting tickets would be given to the data capturing ladies and the monies would be counted.

[41] During the police operation on 10 May 2006 money was found in a safe, in a mattress and on a bed. There were also used fah fee tickets in the dining room.

[42] After Mr Modiba's evidence in chief the defendants formally tendered a number of admissions which were in essence a confirmation of most of the evidence Mr Modiba had given. These had the positive effect of curtailing the proceedings and shortening the cross-examination by Mr Bredenkamp S.C for the defendants.

[43] Mr Modiba had the demeanour of a witness who knew and was quite certain of the facts he was testifying about. He was equally not found wanting even under the brief cross-examination he was subjected to. I find that his whole evidence was reliable.

[44] The next witness, Captain Hazelhurst testified about the chain of custody of exhibits which included fah fee tickets which were kept in

the SAP 13 storage at Groblersdal. He was personally involved in the seizure on 10 May 2006 and entered the exhibits in the SAP register. These exhibits were later returned to the Groblersdal house on 23 May 2006 pursuant to court proceedings. They were however seized again pursuant to a new warrant and Hazelhurst was once more responsible for re-entering the seized assets into the police register. The sister of the fourth defendant, the seventh defendant, signed for the assets on 23 May 2006.

[45] Captain Hazelhurst, handed the fah fee tickets seized from the Groblersdal house to Mr Pohl who was a senior inspector from the Limpopo Gambling Board on 7 July 2006. Mr Pohl is now deceased.

[46] The next witness was Mr Maenetja who was an accountant attached to the Limpopo Gambling Board. He testified about his involvement in the auditing of the fah fee tickets. His offices were in the same building as that of Mr Pohl. He was responsible for receiving fah fee tickets from Mr Pohl and this he did meticulously by taking one bag at a time from Mr Pohl analyzing it and returning it before taking another one. The audit by Maenetja covered a period of 14 days between March 2006 and 10 May 2006. During that period the total takings were R462, 684, 47. The overall payout amounted to R 328,577,60 whilst the gross profit amounted to R 134, 106, 87.

In my view it can hardly be suggested that the chain of evidence with regard to seizure, storage and transfer of the fah fee tickets to inspector Pohl before they were audited by Maenetja was disrupted. As stated, even the handling of these tickets by Pohl and Maenetja seems to have been done with meticulous care. It is therefore rather far fetched to suggest a mix up with other tickets the origin of which is not part of the evidence before me. Further, I find that the omission of a handing over affidavit is not material to the chain of evidence. Captain Hazelhurst confirmed six bags of tickets with the seventh one being unused tickets.

[47] Mr Mhlarhi testified after Maenetja. He was also a Limpopo Gambling Board Inspector. He was part of the police operation on 10 May 2006. He testified how they found money stashed into a mattress in a bedroom, in a safe and on a bed. He also testified about approximately 100 shock absorbers on shelves in the dining room passage. He also observed betting tickets, a computer and a bag with books used in betting.

[48] An assessment of the NDPP evidence is facilitated by the admissions by the defendants which by and large confirmed the testimony tendered by the plaintiff. From that evidence the following becomes clear:

48.1. Extensive fah fee operations were conducted from the Groblersdal house on a daily basis for several years. According to the defendant's admissions the period was 2003 to 2006.

48.2. The operators, data capturers and drivers operated from the house in Groblersdal at least until May 2006.

[49] It is common cause that the cash amount of R 14, 179, 81 is the proceeds of unlawful activities. This was admitted by the defendants. I accordingly accept and find that the NDPP established its case as far as the cash is concerned. It is accordingly liable to forfeiture.

[50] Mr Bredenkamp S.C (assisted by Adv J Hattingh) submits that the immovable property and the bakkies were not instrumentalities but merely incidental to the commission of the offences. Section 1(1) of POCA defines the instrumentality of an offence as any property "which is concerned in" the commission of an offence.

[51] "Instrumentality of an offence" has been interpreted in a number of Supreme Court of Appeal and Constitutional Court cases. See:

NDPP v Cook Properties 200(2) SACR 208 SCA

Prophet v NDPP 2005(2) SACR 670 SCA

Prophet v NDPP 2006(2) SACR 525 CC

Mohunram v NDPP 2007 (2) SACR 145 CC

- [52] In the Cook Properties case (supra) the Supreme Court of Appeal stated that *"The instrumentality of an offence" must be interpreted "so that the link between the crime committed and the property is reasonably direct, and that the employment of the property must be functional to the commission of the crime... the property must play a reasonably direct role in the commission of the offence. In a real and substantial sense the property must facilitate or make possible the commission of the offence... the property must be instrumental, and not merely incidental to, the commission of the offence"*. (para 31)

The question is :

"Whether there is a sufficiently close link between the property and its criminal use and whether the property has close enough relationship to the actual commission of the offence to render it an instrumentality" (para 44).

- [53] Mr Labuschagne S.C (assisted by Adv N.J Van Zyl) submits that a fah fee operation is a continuous offence which is not only conducted at a specific point. He finds support for his submission in

The State v Chan 1962(1) SA 735 TPT

which was a fah fee case in which it was viewed as a lottery offence. In that case De Wet JP (with whom Roberts AJ concurred) at 735E:

"In this case it is said that each game of fah fee constitutes a separate lottery and it was conceded by counsel for the state that it was incumbent upon the prosecutor to prove that the game was played on the date alleged in the charge. On this basis the appellant was acquitted. With respect I do not agree with this approach. Take the case of well-known type of lottery known as "sweepstake". In my opinion the organisers conduct this lottery from the time the tickets are first printed until the last winner has paid out. A person who is found

*selling tickets is guilty of assisting in the conduct of lottery. When a person is found in possession of a book of tickets and counterfoils of sold tickets, indicate that he has sold tickets to various persons the inference is that he is still engaging or assisting the promoters (see **R v Topham 1930 TPD 697**). The date when the so-called draws takes place appears to me to be irrelevant. Similarly, in the instant case, the evidence gives rise to the inference that the appellant was assisting in a game which was current. It may be that he was engaging in paying out winning stakes or it may be that he was still collecting stakes or it may be that he was assisting in more than one game. It does not seem to matter which of these activities he was engaged in. On any view he was assisting the organisers of this so-called game which is clearly lottery”.*

- [54] I accept the submission that fah fee is a continuous offence. In **casu** it can therefore not be said that the fah fee operation only took place at the fah fee operation points which were serviced by the vehicles from the Groblersdal house on a daily basis. The fact that the fah fee betting tickets, the money wagered and collected and all the other equipment (including motor vehicles) were kept at the Groblersdal house was evidence that all the participants were actively assisting in the conduct of the fah fee operation. In other words, the participants were actively engaged in ensuring the success of one objective, the success of the fah fee enterprise.

I am accordingly not persuaded that assets which were seized by the police on 10 May which included the motor vehicles were merely incidental to the commission of the crime.

- [55] From the evidence presented by the NDPP and the admissions made by the defendants (addendum to Exhibit 2) one cannot but come to the conclusion that all the property was linked in a reasonably direct manner to the commission of the crimes mentioned in Schedule 1 of

POCA. Equally the property was functional and played a reasonably direct role in the commission of the offence.

- [56] Other additional factors which lead to this inescapable conclusion are that the property was *"appointed, arranged, organised, furnished and adapted or equipped to enable or facilitate the applicant's illegal activities"*.

See **NDPP v Cook Properties** (supra) paragraphs 34 AND 49

The wendy house and garage which were used as accommodation for the drivers and computer operators and the laundry room which was equipped with computers and printers are just some of the evidence of how the Groblersdal house was arranged, organised, adapted and equipped to facilitate the illegal activities.

- [57] By defendants own submissions, the property had been used for repeated offences over a prolonged period of time, namely 2003 to 2006. This in itself negates the suggestion that the property was incidental to the commitment of the offences.

See **NDPP v Parker 2006(1) SACR 284 SCA** paragraph 42
Mahunran (supra) paragraph 51 and 52

- [58] The fact that the fah fee enterprise was led by the fourth defendant was never seriously contested and even though he was aware of the allegations against him and present in court he did not testify.

Proportionality

- [59] It is common cause that the Groblersdal house was purchased by the fourth defendant allegedly as an investment for the first defendant. The purchase price was the sum of R240,000-00. Uncontested evidence by Maenetja was that the enterprise could receive takings as much as

R462, 684, 47 over a 14 day period. This could mean taking of about R800,000.00 over a month amounting to about three times the purchase price of Groblersdal house.

[60] It is also common cause that the house is not the primary residence of the first and fourth defendants. According to her evidence it is also not a source of funding for her, having been purchased with funds procured by the fourth defendant.

[61] Mr Labuschagne S.C submits and I accept that the criminal conduct of those who committed gambling activities constituted POCA crimes. Even if it was not so, the extended period over which the crimes were committed, the large scale on which the enterprise was operated, the huge profits generated and targeting of the less affluent rural areas from which significant amounts were extracted all point to the fact that in this case the proportionality threshold is comfortably cleared.

[62] In my view, this is indeed a case where ordinary criminal law remedies are inadequate to stop the syndicated fah fee operations. Captain Hazelhurst testified that the gambling is continuing regardless of the efforts made by the police. Criminal activity appears to have gathered momentum. It is more organised and the operators are now provided with armoured vehicles. This to me, appears to be a nonchalant and blatant disregard of the legal processes of this country which cannot be dealt with in terms of ordinary criminal law. Harsher measures have to be brought into play to bring this unlawful activity to an end. This brings me to the next stage of these proceedings.

The application for exclusion

[63] Despite the fact that all the defendants raised the innocent owner defence only the first defendant gave oral evidence in these proceedings. In the circumstances, the innocent owner defence would have to fail in respect of the remaining defendants. Significantly, as

stated (supra) the fourth defendant did not testify even though he was present in court.

[64] First defendant testified that she married fourth defendant in China in 1991 and arrived in South Africa in 1992. Her husband had purchased the Groblersdal property for her in 2002 for R240, 000 and they had lived at that property two months after which they moved to Witbank. The property has been purchased for her as an investment. She contends that she was not aware of the unlawful activities conducted from the Groblersdal house. She further states that she was only a housewife whose activity was raising her four children.

[65] Though first defendant visited the Groblersdal property from time to time she did not observe any unusual activity. She would merely sit in the lounge and noticed nothing untoward.

[66] First defendant presented very poorly in the witness box. She was cross-examined about the fact that in earlier proceedings, in three separate affidavits she described herself as a businesswoman and not as a housewife. She could hardly give a credible response. She merely denied being a businesswoman and sought to hide behind the fact that she was non English-speaking.

[67] She identified her signature on certain affidavits as her own and when taxed about the similarity with a signature on another affidavit, she claimed not to recall her signature. Later in re-examination she seemed to recall that her attorney had signed documents on her behalf under power of attorney. When called upon to identify the attorney she had instructed she could not do so even though he was present in court. It was only when her senior counsel pointed specifically to her attorney sitting right behind him that she belatedly seemed to recognise him.

[68] The demeanour of the first defendant hardly inspired any confidence and her credibility was found wanting. She was evasive and failed to

respond frankly to the simplest of questions. Her evidence was weak. She was unaware of her husband's business even though they have been married for twenty one years.

[69] It is common cause that the Groblersdal property was occupied by 8 Chinese people (including her sister in law), 6 drivers and 5 computer data capturers. At any given time there would be seven (7) bakkies parked on the property everyday except when they were out servicing the fah fee routes. There were 100 shock absorber spare parts in the dining room passage. There were 5 computers in the laundry room. The wendy house was used as sleeping quarters for the data capturers and the drivers were accommodated in the garage. The property was by all accounts a veritable hive of activity. The first defendant would have this court believe that on each of the occasions she visited her sister-in-law she saw nothing untoward.

[70] In my view the testimony of the first defendant is littered with improbabilities. Any reasonable person would have noticed that something was going on and made inquiries. In the light of the generally weak and unreliable testimony by first defendant I find that she has not discharged the onus upon her in proving the requisites of section 52(2A)

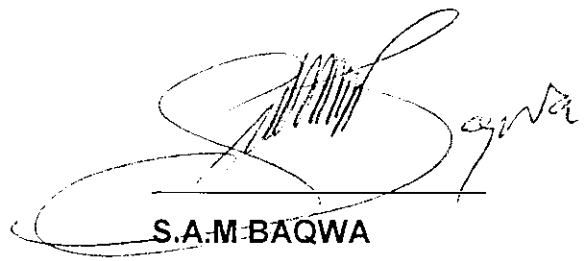
[71] In the result:

Having considered the conspectus of facts, submissions and the law, I have come to the conclusion that the following is an appropriate order:

71.1. The draft order annexed to plaintiff's declaration is marked "X" and made an order of court.

71.2. The application for exclusion of the defendants' property from the forfeiture order is dismissed with costs.

71.3. Costs to include the costs of Senior Counsel.

A handwritten signature in black ink, appearing to read 'S.A.M. Baqwa', is written over a horizontal line.

S.A.M. BAQWA

**(JUDGE OF THE HIGH
COURT)**

Plaintiff's attorneys:

Counsel for the plaintiff:

State Attorney, Pretoria

Adv E.C Labuschagne S.C

Adv N.J Van Zyl

Defendants attorneys:

Counsel for the defendants:

Tiaan Joubert Attorneys

Adv B.C Bredenkamp S.C

Adv J Hattingh

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13/11/2012
IN THE HIGH COURT OF SOUTH AFRICA
TRANSCAAL PROVINCIAL DIVISION

CASE NO: 7942/2007

In the matter between:

THE NATIONAL DIRECTOR OF PUBLIC
PROSECUTIONS

Plaintiff

and

NUANJAN LIU

First Defendant

XIUMEI LIU

Second Defendant

REINIER KROGSCHEEPERS

Third Defendant

YONGSEN LIU

Fourth Defendant

JIAWEN LING

Fifth Defendant

JIANHAO FENG

Sixth Defendant

YUTIAN LEI

Seventh Defendant

DRAFT ORDER

IT IS HEREBY ORDERED: -

1.

An order is granted in terms of the provisions of section 50 of the Prevention of Organised Crime Act, No. 121 of 1998 (the Act) declaring forfeit to the State the following property:

1.1 Erf 569, Groblersdal Extention 8, title deed T136759/2002,

- 1.2 Toyota Hilux light delivery vehicle with registration number PPZ
501 GP,
- 1.3 Toyota Hilux light delivery vehicle with registration number PPD
416 GP,
- 1.4 Toyota Hilux light delivery vehicle with registration number RBB
899 GP,
- 1.5 Toyota Hilux light delivery vehicle with registration number RBX
587 GP,
- 1.6 Toyota Hilux light delivery vehicle with registration number DHK
476 MP,
- 1.7 Toyota Hilux light delivery vehicle with registration number PYJ
816 GP,
- 1.8 Toyota Hilux light delivery vehicle with registration number SFZ
863 GP,
- 1.9 R 14,179.81 in Cash,
- 1.10 A money weighing scale
- 1.11 A sealing machine

1.12 Five computers with screens and keyboards, and

1.13 Five printers

which property is presently subject to a preservation of property order granted by this Honourable Court under the above case number on 9 March 2007.

2.

Directing that the curator bonis appointed by this Court in terms of the order granted on 9 March 2007 continue to act as such with authority to perform all the functions specified in the Act subject to the provisions of the Administration of Estates Act, 66 of 1965, and to the supervision of the Master of the High Court;

3.

In terms of section 56(2) of the Act, the property shall vest in the *curator bonis* on behalf of the State on the date on which the forfeiture order takes effect.

4.

The curator bonis is authorised, as of the date on which the forfeiture order

takes effect to:

- 4.1 Dispose of the property by private sale or other means;
- 4.2 To deduct his fees and expenditure which were approved by the Master of the High Court from the proceeds of the sale of the property;
- 4.3 Deposit the balance of the proceeds into the Criminal Assets Recovery Account established under section 63 of the Act, number 80303056 held at the South African Reserve Bank, Vermeulen Street, Pretoria.
- 4.4 Perform any ancillary acts which, in the opinion of the curator bonis, but subject to any directions of the Criminal Assets Recovery Committee established under section 65 of the Act, are necessary.

5.

The curator bonis shall as soon as possible but not later than within a period of 90 days of this order coming into effect, file a report with the Applicant and the Master of the High Court, indicating the manner in which he:

5.1 Completed the administration of the property mentioned above and

5.2 Complied with the terms of this Order.

6.

The Registrar of this Court must publish a notice of this order in the Government Gazette as soon as practical after the order is made.

7.

All the paragraphs of the order operate with immediate effect, except paragraphs 3 and 4, which will only take effect on the day that a possible appeal is disposed of in terms of section 55, or on the day that an application for the exclusion of interests in forfeited property in terms of section 54 of the Act is disposed of, or after expiry of the period in which an appeal may be lodged or application be made in terms of section 54 of the Act.

8.

Costs of suit. The Defendants are ordered to pay the costs hereof jointly and severally, the one paying the others to be absolved.

BY ORDER OF THE COURT

REGISTRAR OF THE HIGH COURT

DATE