

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

CASE NO 2018/25394

In the matter between:

**THE TRUSTEES FOR THE TIME BEING
OF THE MEDIA MONITORING PROJECT BENEFIT
TRUST**

First Applicant

**S.O.S: SUPPORT PUBLIC BROADCASTING
COALITION**

Second Applicant

and

**SOUTH AFRICAN BROADCASTING
CORPORATION
SOC LIMITED**

First Respondent

JOE THLOLOE

Second Respondent

SETTLEMENT AGREEMENT

1. Recordal

- 1.1 The South African Broadcasting Corporation SOC Limited ("**SABC**") has established a commission of inquiry to investigate allegations of editorial interference at the SABC ("**the Commission**"). The Commission is being chaired by an independent external person, i.e. Dr Joe Thloloe ("**Dr Thloloe**").
- 1.2 The applicants have launched an urgent application under Case No 2018/25394 for the applicants and members of the public or the media to be permitted to attend the proceedings before the Commission ("**the Application**").
- 1.3 The applicants are civil society organizations who seek to advance quality media and the free flow of information to the public on matters of public interest as well as the broadcasting of quality, diverse, citizen-orientated public interest programming aligned to the goals of the South African



Constitution. The applicants have accordingly brought the Application in their own interests and in the interests of the public.

1.4 The parties to this agreement have agreed to settle the Application due to their shared commitment to ensuring that the work of the Commission continues without hindrance and that the public is kept informed about the work of the Commission.

2. Settlement terms

2.1 The parties have agreed to settle the Application on the basis set out in this agreement.

2.2 Third party submissions

2.2.1 Third party submissions that have already been heard: All third party written submissions and transcripts of the oral hearings conducted with third parties prior to the conclusion of this agreement are to be made publicly available, unless a third party expressly requires its submissions not to be made public. In the latter event, Dr Thloloe will exercise an independent discretion about how to deal with the submissions by the said third party, after hearing argument by the said third party and the applicants. Where a third party has itself publicised its own submissions these will automatically be made public.

2.2.2 Third party submissions that have not already been heard: All third party written submissions are to be publicly available and oral hearings conducted with third parties after the conclusion of this agreement are to be open to the public.

2.2.3 The SABC will issue invitations to the applicants as well the Freedom of Expression Institute and South African National Editor's Forum to make written and oral submissions to the Commission.

2.3 Staff submissions

2.3.1 The written submissions and oral evidence of any current or former member of the SABC board or executive management team shall be

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open to the public and transcripts for oral hearings that have already taken place will be made publicly available.

2.3.2 The submissions and oral evidence of staff members, excluding a member of the SABC board or executive management, are confidential and not open to the public, unless such staff member agrees otherwise. Further, the identity of the staff member will be kept confidential in interim reports and in the final report.

2.3.3 Where a staff member wants his or her written submission to be public: He or she is entitled to make their written submission public in their private capacity and/or to give interviews on the contents of their submissions, written or oral. Such individual staff members will be responsible for any legal or other consequences arising from the publication of their submissions and the SABC undertakes not to invoke any confidentiality or other similar clause in their employment contracts. This does not interfere with the SABC's rights to sue for defamation in respect of any such submissions.

2.3.4 Dr Thloloe shall caution witnesses who may intend to make submissions public as to the potential consequences thereof and that the SABC bears no responsibility from any consequences arising therefrom.

2.4 Final report and transcripts

2.4.1 The full version of the final report prepared by the Commission will be made public.

2.4.2 The identities of confidential witnesses may be redacted from the final report.

2.4.3 The full transcript of all oral hearings conducted by the Commission, save for those relating to confidential witnesses, will be made public.

2.5 Schedule

2.5.1 The Commission's schedule is to be open to the public. Confidential witnesses' identities will be redacted from the schedule.

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3. Withdrawal of the Application

3.1 Upon signature of this agreement by both parties, the applicants will file a notice of withdrawal of the Application.

4. Costs

4.1 Each party will pay its own legal costs arising from the Application and the conclusion of this agreement.

5. Whole Agreement

5.1 This agreement constitutes the entire agreement between the parties with regard to the subject matter and it may not be waived, changed, amended, modified or otherwise altered, except in writing by the parties.

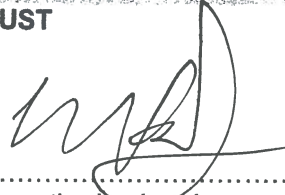
Signed at Johannesburg on 13 July 2018

Witness



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**for THE TRUSTEE FOR THE TIME
BEING OF THE MEDIA
MONITORING PROJECT BENEFIT
TRUST**



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duly authorised and warranting such
authority

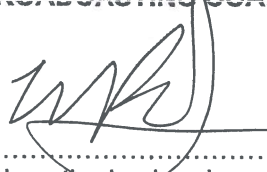
Signed at Johannesburg on 12 July 2018

Witness



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**for S.O.S: SUPPORT PUBLIC
BROADCASTING COALITION**



.....
duly authorised and warranting such
authority



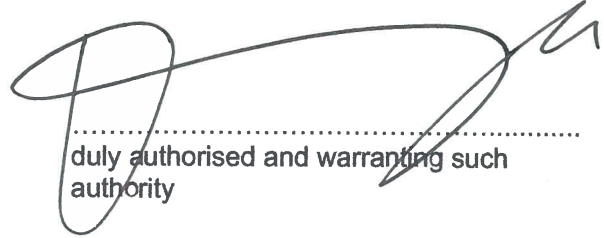
Signed at JOHANNESBURG on 12th JULY 2018

Witness



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for THE SOUTH AFRICAN
BROADCASTING CORPORATION
SOC LIMITED



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duly authorised and warranting such
authority

Signed at Johannesburg on 12 July, 2018

Witness



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for JOE THLOLOE



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duly authorised and warranting such
authority

