

Media Statement



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TO: ALL MEDIA

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RE: FUGITIVE'S ASSETS FORFEITED TO THE STATE

On 15 August 2019 Justice Djaje of the Mahikeng Division of the High Court granted the Asset Forfeiture Unit (AFU) in the North West a confiscation order in terms of Section 24 of the Prevention of Organised Crime Act 121 of 1998 (POCA), coupled with a realisation order. The order declares various assets of Sebastiao Aisha Mbemba and Helenique Fashion Retailers and Wholesalers cc realisable and therefore forfeited to the state. The assets of the latter entity are under restraint by virtue of the fact that Mbemba, who absconded on 11 October 2018 when judgment was being delivered in her criminal matter, is the sole member of the entity.

Mbemba originally stood trial with other co-accused. They were charged with various POCA contraventions. She particularly faced trial for money laundering, racketeering and managing a criminal enterprise. The state alleged that she was in charge of an illicit cigarette smuggling syndicate that smuggled illicit cigarettes across the border to evade import tax.

By fleeing, Mbemba evaded justice, thus preventing the AFU acting on behalf of the NDPP, from bringing a normal confiscation application at the end of her trial as envisaged in Section 18(1) of POCA. It was on that basis that an order in terms of Section 24 of POCA was sought and granted. The civil matter was originally set down for 04 July 2019 but had to be postponed to 15 August 2019 as the presiding judge at the time co-incidentally happened to be the trial judge. She preferred that the matter rather be heard and decided by a new judge.

In supporting the Section 24 *ex parte* application the AFU submitted that it was clear from the judgment, up to the point when it was interrupted by her sudden disappearance, that Mbemba would have been found guilty on the charges against her. It was further submitted that the trial court would have found that she benefited from her unlawful activities and would have thus granted a confiscation order against her. In

terms of Section 24(3)(a) of POCA, so the argument went, the High Court was fully competent to still declare that Mbemba benefited and grant a confiscation order accordingly, notwithstanding her continued absence.

The total amount covered by the money laundering charges against Mbemba was R8 674 983, without factoring in fluctuations in the value of currency. This significantly increased to R11 022 851. 42 after such an adjustment was made. Adv Lize Van Dyk represented the AFU.

The latest development follows a restraint of property order which was granted on 30 October 2014 in terms of Section 26 of POCA. Assets worth over R11 million are now in the process of being realised by the *curator bonis* to satisfy the confiscation order in the amount of R11 022 851.42.

Kind Regards,

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