

**IN THE HIGH COURT OF SOUTH AFRICA
(CAPE PROVINCIAL DIVISION)**

CASE NO. 1407/2006

In the matter between:

MASEVE INVESTMENTS 7 (PTY) LTD

Applicant

and

**THE GOVERNMENT OF THE REPUBLIC OF
EQUATORIAL GUINEA**

First Respondent

TEODORO NGUEMA OBIANG

Second Respondent

THE REGISTRAR OF DEED WESTERN CAPE

Third Respondent

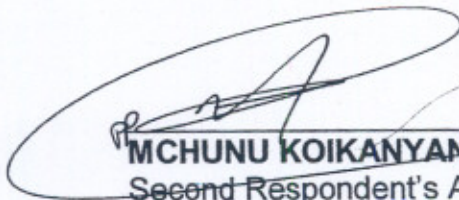
THE DIRECTOR GENERAL OF FOREIGN AFFAIRS

Fourth Respondent

FILING SHEET

**PRESENTED FOR FILING AND SERVING:
SECOND RESPONDENT'S ANSWERING AFFIDAVIT**

DATED AT JOHANNESBURG ON THIS 8TH DAY OF AUGUST 2006



MCHUNU KOIKANYANG ATTORNEYS

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TO: THE REGISTRAR
OF THE ABOVE HONOURABLE COURT
CAPE TOWN

AND TO: WYNARD VILJOEN
Applicant's Attorneys
C/o De Klerk & Van Gent Inc
3rd Floor, ABSA Building
132 Aderly Street
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Attention: Wynard Viljoen
Tel No.: + 27 11 482 9140

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AFS TOE OORVANG / COPY RECEIVED	
DE KLERK & VAN GENT	
PER	S van Jaarsveld
DATE/TIME	10/08/06
TIME	11h00

IN THE HIGH COURT OF SOUTH AFRICA
(CAPE PROVINCIAL DIVISION)

CASE NO 1407/2006

In the *ex parte* application between -

MASEVE INVESTMENTS 7 (PTY) LIMITED

APPLICANT

and

THE GOVERNMENT OF THE REPUBLIC
OF EQUATORIAL GUINEA

1ST RESPONDENT

TEODORO NGUEMA OBIANG

2ND RESPONDENT

THE REGISTRAR OF DEEDS,
WESTERN CAPE

3RD RESPONDENT

THE DIRECTOR-GENERAL OF
FOREIGN AFFAIRS

4TH RESPONDENT



AFFIDAVIT

I, the undersigned,

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TEODORO NGUEMA OBIANG

do hereby make oath and state as follows:

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1.1

I am an adult Guinean male, and businessman, residing at Malaba,
Republic of Equitorial Guinea.

1.2 The facts contained in this affidavit are within my personal knowledge, save where the contrary appears, and are, to the best of my knowledge and belief, true and correct.

1.3 I am the second respondent in this matter. Although I am the Minister of Forestry in the Government of the Republic of Equatorial Guinea, I purchased: Erf 477 Clifton Ridge and Erf 303 Constantia, Cape Town, in my private capacity, from my own funds. Therefore I depose to this affidavit in my personal capacity, as a private citizen of that country and, anything that I say is not intended to be, nor is it, on behalf of the Government of the Republic of Equatorial Guinea.



BACKGROUND TO THE APPLICATION

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2.1 On 15 February 2006, the applicant launched an *ex parte* application for a rule *nisi*, being an attachment order, and *confirmandam jurisdictionem*.

2.2 A rule *nisi* was issued calling upon the respondents to show cause, before 17 August 2006, at 10h00 or as soon thereafter as

the matter may be heard, why the following order should not be made final:

2.2.1 "That the Sheriff for the District of Cape Town be and is hereby directed to attach, secure and preserve the following assets:

2.2.1.1 The fixed property situate at 76 – 4th Beach, Clifton, Erf 477 Clifton Ridge, Cape Town; and

2.2.1.2 the fixed property situate at 35 Klaassen Road, Bishop's Court, Erf 303 Constantia, Cape Town; and

2.2.1.3 alternatively to 2.2.1.1 and 2.2.1.2 above, the first respondent's right, title and interest and into the above fixed properties, including the right to occupation;

2.2.1.4 further alternatively, any right that the first respondent may have against the second respondent arising from the underlying property transactions in terms whereof the above properties



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became registered in the Deeds Office in the name of the second respondent;

2.2.2 *that the attachments are ad confirmandam jurisdictionem, remain in force and effect until the final determination of an action to be instituted in terms of paragraph 1(c) of this order;*

2.2.3 *that the applicant is directed to institute an action against the first respondent on one or more causes of action as described in the affidavit of Christian Schoeman, within thirty (30) days from this order being made final, or security be put out, failing which the order will lapse;*



2.2.4 *that the costs of this application be costs in the action to be instituted.*

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2.3 *That the third respondent be directed to place a caveat against the title deeds of the above properties preventing any party from dealing with, disposing or encumbering the fixed assets pending the final determination of the action to be instituted.*

3 The order set forth in paragraph 1.1 above operates as an interim interdict pending the final determination of this application.

4 This order and the papers filed in support thereof must be served be on the first and second respondents in the following manner:

4.1 By service through the Department of Foreign Affairs under and in terms of s 13(1) of the Foreign States Immunities Act, 1981; and



4 by service through the Sheriff at the fixed properties referred to above; and

4 by informal delivery to the Embassy of the first respondent in Pretoria.

5 The fourth respondent is directed to advise this Court in writing, as soon as is practicable, but in any event not later than 30 April 2006, when this order and the papers filed in support thereof were received by the Department of Foreign Affairs of the first respondent.

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6 The first and second respondents' attention is directed to the following:

- (a) *That the first and/or second respondents have the right to anticipate the return date of this order, with seventy-two (72) hours' notice to the applicant's attorneys mentioned in this notice;*

- (b) *That the first respondent "has the right to put up security for the amount of the applicant's claim in the founding affidavit of Christian Schoeman filed in support of the order prayed for approved by the Registrar of this Honourable Court in lieu of the attachment. Upon such security being put up, the attachment will be lifted forthwith".*



7 The order was served as directed and, pursuant thereto the two properties were attached.

8 **APPLICATION UNDER RULE 6(12)(c) / SETTING ASIDE A RULE NISI**

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8.1 The second respondent now seeks re-consideration of the matter in terms of Rule 6(12)(c) of the Uniform Rules of Court, alternatively setting aside the attachment order and the attachments consequently made by the Sheriff of the two properties, on the following grounds:

8.1.1 The applicant failed to disclose all relevant and material facts to the Court, as required in *ex parte* applications, which might have influenced the Court in coming to a decision;

8.1.2 The relief sought by the applicant was based on unsubstantiated hearsay evidence and/or lies told to the Court;

8.1.3 The Court did not have jurisdiction to grant leave to the applicant to proceed with the application. I am advised that an *incola* applicant for attachment to found jurisdiction must establish a *prima facie* case against the peregrinus and that the property to be attached is that of the peregrinus;



8.1.4 The applicant misdirected the Court as to the law applicable to the attachment of property owned by foreign states in respect of which the Foreign States Immunities Act, 87 of 1981 ("the Act"), applies: in that the Court was advised that it had jurisdiction to grant an order for the attachment of the two properties in terms of provisions of 14(3) of the Act, read with s 3, because s 14(1) of the Act

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only prohibited attachment of property of a foreign state "in order to found" and, that applicant's application was to confirm jurisdiction and therefore the section did not apply.

APPLICANT'S CASE

9 The applicant's contention was that although the two properties were registered in my name, the true owner was in fact the first respondent.

10 In respect of Erf 477 Clifton Ridge, the applicant relied on the account of William Inglis Inc, the conveyancing firm of attorneys for that property, which showed, *inter alia*, receipt of R25 451 795.70 payment.



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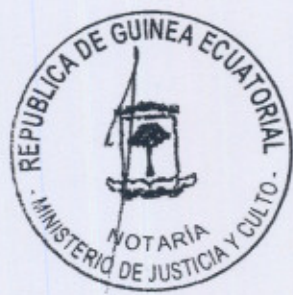
10.1 The bank account of Attorney Inglis is held with Standard Bank, Woodstock Branch, Account No 071144234.

10.2 On 16 April 2004, an amount of R25 451 795.70 was deposited by electronic transfer into that account. It bore the following information:

"Teletransmission inwards"

"Socage 0404154709 tt 7772"

10.3 The applicant did not attach the teletransmission document he has quoted from but then concludes that –



"The funds came from the account of the Government of the Republic of Equatorial Guinea, held at Reeds Bank, New York. It is clearly money belonging to the Government. "

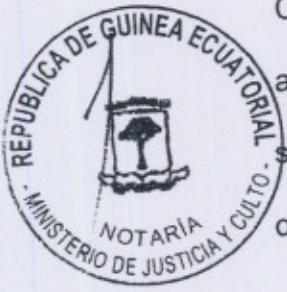
10.4 He further deposed that the above information was supplied to him by an informant, whose identity he had been asked to protect. But the transactions were of such a nature that both Attorney Inglis and the Standard Bank of South Africa would have been obliged, under the provisions of the Financial Information Control Act, 2001 ("FICA"), to have satisfied themselves as to the identity of their client and origin of the funds; and that when the Clifton Ridge property was allegedly purchased by the second respondent on 24 March 2004 and registered in his name, FICA was then fully operational.

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BACKGROUND INFORMATION RE EQUATORIAL GUINEA'S BANKING SYSTEM

11 However, before dealing with the source of these funds, I am advised that it would help this Honourable Court to have the following information as background.

11.1 Equatorial Guinea's banking system is managed by the Bank of Central African States (BEAC in French), a shared Central Bank also serving the five other member countries of the Central African sub-region. The headquarters of BEAC are in Yaounde and the official currency is the franc CFA linked to the Euro.



11.1.1 The French Ministry of Finance closely monitors and regulates BEAC. Each member state is required to maintain 65% of its foreign reserves in the French Treasury. This maintains the liquidity and stability of the CFA franc.

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11.1.2 Lending and borrowing base rates are set by the BEAC. In 1993 member states of BEAC created a supranational authority, the COBAC (Commission Bancaire de l'Afrique Centrale), to regulate all banking institutions in the CEMAC

zone. The COBAC has authority to licence banks and discipline delinquent institutions..

11.1.3 CCEI BANK GE is a subsidiary of the Society Generale of Cameroon, Afriland First Bank. CCEI hold deposits of approximately \$23.2m and is 10% owned by the Equitorial Guinea Government. Foreign Exchange controls in Equitorial Guinea are in place under the Ministry of Economy & Finance which has to certify that remittances conform with established regulations. It (the Ministry) authorises transfer of foreign currency out of the country.



11.1.4 This means that any foreign funds that are to be transferred from a bank account out of Equatorial Guinea to a foreign country, the Ministry must give permission and,

11.1.5 only then can the transferor's bank carry out the Transfer Order from that bank to the recipient's bank;

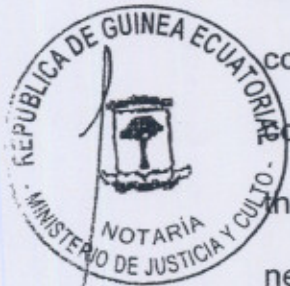
11.1.6 but the transferor must first authorise the transfer of the funds from his account to the transferee;

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11.1.7 he must also obtain permission from the Ministry of Economics and Finance for the funds to be remitted abroad;

11.1.8 it is only after permission has been obtained that the transferor's bank can transfer the funds to the Paris bank for the latter to remit the same to the recipient's account in the foreign country.

11.2 Cabinet Ministers and public servants in Equatorial Guinea are by law allowed to owe companies that, in consortium with a foreign company, can bid for government contracts and should the company be successful, then what percentage of the total cost of the contract the company gets, will depend on the terms negotiated between the parties.



11.2.1 But, in any event, it means that a cabinet minister ends up with a sizeable part of the contract price in his bank account.

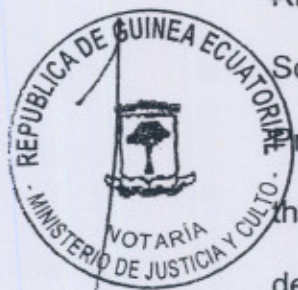
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11.2.2 It is in the context, therefore, of the law of Equatorial Guinea that my owning a company should be viewed by this Court, and not in terms of the South African law.

11.3 One of the companies that I own is SOCIEDAD DE CARRETERAS DE GUINEA ECUATORIAL ("SOCAGE"), with a bank account at the CCEI BANK GE, in BATA, the commercial capital of the country.

PURCHASE OF 76 4TH BEACH AND 35 KLAASENS ROAD

12 Turning *first* to the purchase of 76-4th Beach, Erf 477 Clifton Ridge, Cape Town. ("4th Beach") In February 2004, I came to South Africa on the occasion of the opening of our Embassy in Pretoria. Thereafter I went to Cape Town with the Ambassador to the opening of the South African Parliament. That is when I decided that I wanted to purchase property in South Africa and, in Cape Town in particular.



13 I was introduced to two estate agents: Gail Gabriel Gavrill of Dogoon & Gavrill Properties and Mike Greeff of Greeff Properties, both of Cape Town. I then instructed the firm of William Inglis Inc as my conveyancing attorneys in respect of the 4th Beach property, as my conveyancing attorneys. I had insisted that once the purchase price was agreed, I be told in advance all the other

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necessary expenses associated with purchasing property; taxes, duties, conveyancing and registration fees that were payable, so that I would send to the conveyancing attorney all moneys due and payable in one go instead of in drips and drabs.

13.1 On return to Equatorial Guinea I went to my bank: CCEI BANK GE in BATA, signed a Transfer Order in the sum of R25 451 795.70 from the SOCAGE Account to the account of William Inglis Inc with the Standard Bank of South Africa. This was on 29 March 2004. I attach hereto a copy of the Transfer Order, marked "TNO1".



13.2 At the same, *ie* 29 March 2004, I applied for permission from the Department of Economy and Finance to effect the transfer of the abovementioned foreign currency to William Inglis Inc, South Africa. This was granted the following day: 30 March 2004. I attach hereto, marked "TNO2", the Department's permission.

13.3 On 31 March 2004, the CCEI BANK GE, from its headquarters in Malabo, the capital city, transferred from the bank account of Socage, Bata, the amount of R25 451 795.70 to Belgolaise, Paris, France for the Standard Bank of South Africa account of William

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Inglis Inc. I attach hereto the printout of the transmission, marked "TNO3".

14 I wish to draw to the Court's attention the the "TR982480/04" number written in manuscript in "TNO1" correlates to the "Reference de l'emetteur: TR982480/04" in "TNO3". This clearly shows that this was the money I signed the Transfer Order for on 29 March 2004.

15 From Annexure "CS2" in the founding affidavit of the applicant, the Honourable Court can now see that William Inglis Attorneys and Conveyancers have properly accounted for the sum of R25,451,795.70 received.



16 So there is no truth whatsoever that "*The funds came from the account of the Government of the Republic of Equatorial Guinea held at Riggs Bank, New York. It is clearly money belonging to the Government.*", as stated in paragraph 8.5© of the applicant's Founding Affidavit.

16.1 The deponent failed to attach a copy of the electronic transfer document from which he had quoted in paragraph 8.5 (b) of the

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founding affidavit. The verbatim quotation indicate that he had it in his possession at the time he was deposing to his affidavit.

16.2 He failed to attach it, knowing at the time that the document would not support the lies he had been told by his informant.

16.3 The Deponent, further, withheld from the Court information which he knew or ought to have known did not support his case that the purchase money for the property came from Riggs Bank, New York. I say that he knew or ought to have known that the money had not come from Riggs Bank on the ground that, by his own account, payment under the agreement that forms the basis of the applicant's claim, was to be made in South Africa in US Dollars into the trust account of Engineering Design and Construction Company's attorneys: Willard Viljoen, in Johannesburg.



16.4 He, further, knew that on at least six different occasions over a period of three years, ie between 1 June 2000 and 1 March 2002, moneys totalling US\$2 427 364 from Riggs Bank, New York, had been paid into that attorney's trust account. Had there been any document evidencing that any of that money had come from an account of SOCAGE held at Riggs Bank, he would have attached that document.

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17 I submit, therefore, that there can be no truth whatsoever in the applicant's unsubstantiated allegations that the purchase money for the 4th Beach property came from an Equitorial Guinea Government account held at Riggs Bank in New York.

18 Insofar as the Constantia property is concerned, I purchased this property on 3 May 2004.

18.1 I attach hereto a copy of the **DEED OF SALE** of the property, dated 25 March 2005, marked "TNO4".

18.2 In respect of this property, I attach the **Transfer Order** from Socage bank account BECI Bank GE of the sum of 28 141 286.30 to the Standard Bank Account of Buchanan Boyes Smith Tabatha, the conveyancing attorneys, marked "TNO5".



18.3 I further attach the Ministry of Economy and Finance's permission for the transfer of the abovementioned foreign currency to the Standard Bank Cape Town bank account of Buchanan Boyes Smith Thabatha, marked "TNO6".

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18.4 I finally attach, in relation to the purchase of this property, copies of:

- (i) the **DEED OF TRANSFER**, dated 3 /5/04, marked "TNO7";
- (ii) Buchanan Boyes Smith Tabata **Pro-Forma Account**, dated 25 March 2004, marked "TNO8".

18.5 If one adds the purchase price of R26,000,000 and what is debited and credited the in pro-forma account, the total comes up as R28,141,286.30, which is the amount that was transferred from my company's bank account in Bata.

19 The above evidence in relation to the source of the purchase money of the Bishop's Court house clearly shows, once again, that it came from the SOCAGE Bank account in BATA, and not from Riggs Bank in New York. I wish to remind the Court that in respect of this property, the deponent has not produced a shred of evidence that the first respondent was in any way whatsoever involved in the payment of the purchase price of the property, but relies entirely on innuendoes and insinuations.



20 I submit, therefore, that had the Court been aware of the true source of the funds to purchase the two properties, the rule *nisi* would not have been granted.

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21 Furthermore, I wish to state that I had met both conveyancing attorneys for the two properties, namely William Inglis and Kevin Daniel of Buchanan Boyes Smith Thabatha Attorneys and given them my particulars, including the bank account from which the purchase funds were to come from and obviously they had provided me with their respective firms' banking details, which I needed to effect the transfer of the purchase moneys to their respective bank accounts.

21.1 Obviously, at the time I was not aware of the requirements of FICA. But now I am advised that they wanted to be sure of my identity and where the purchase money came from so that if they had any doubts about its source they would report the matter to the Financial Services Board, as required under FICA.



22 After purchasing the two properties I requested the conveyancing attorney Kevin Daniel of Bucanan Boyes Smith Thabatha for a tax opinion pertaining to the tax implications involved, if I, as a foreign national, had either to put the property under the name of a company or a trust or a closed corporation. He, in turn, instructed Grant Bayne and Associates, Registered Accountants and Auditors, Tax Consultants. They provided me with the opinion. I

attach a copy hereto of the **Tax Opinion**, dated 28 June 2004, marked "TN09" and their Tax Invoice, marked "TNO10"

23 It is abundantly clear from the contents of the tax opinion that, there can be no truth whatsoever in the allegation "*.....ultimately Mr Obiang would hold shares in a company and execute a declaration of trust reflecting the Government of the Republic of Equitorial Guinea to be the true and lawful owner thereof*"., found in **Annexure "A"** of Schoeman's affidavit.

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I am not a South African citizen who may be familiar with the property tax laws of this country. But I have every right to engage a South African tax consultant for advice, as to the most tax efficient vehicle in which to hold my investments in South Africa.



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It is nothing short of being disingenuous of the applicant to allege, as he does, that I was sent by the Government of Equitorial Guinea to South Africa towards the end of 2003 to purchase property. This bald and false allegation is not in any way supported by any evidence whatsoever.

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Insofar as the contents of paragraph 1.2 of the tax opinion, namely that I did not wish my name to be associated with the properties in

any way is concerned, I insisted on this because I did not want the newsmakers, journalists and photographers to know where I lived in Cape Town, for the simple reason that I did not wish to be pestered by photographers etc invading my privacy whenever I was in Cape Town.

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Furthermore, I spent my own money on alterations, additions and refurbishments on the two properties. In respect of the 4th Beach, Clifton Ridge property, I signed a LETTER OF APPOINTMENT with Okha Interiors CC, whereby I commissioned Stefan Antoni to undertake certain work on alterations, etc. I attach hereto a copy of the **Letter of Appointment** marked "TNO11". The fees payable to Okha Interiors CC for the initial consultancy amounted to R200 000. I attach a copy of OKHA **PRO-FORMA TAX INVOICE**, reflecting that amount, marked "TNO12".

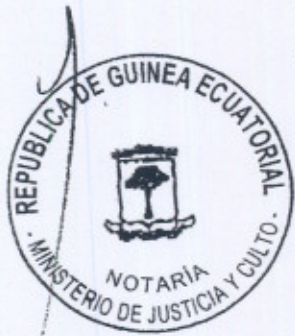


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In respect of the Bishop's Court property, I engaged Jacques Levy, a Swiss architect, to find a local South African builder, to undertake extensive renovations, additions and refurbishment required in respect of this property. The local firm he found for me was PETER MacNAMARA: INTERIORS PROJECT MANAGEMENT of Camp's Bay, Cape Town.

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29 I attach hereto a copy of MacNamara's affidavit and annexures therein in respect of the work he did and payment received therefor, marked "TNO13". As can be seen from Annexure "PMA1" attached to his affidavit dated August 2005, he did not know who the client was for the building construction work that had to be done at the property. But by the end of September 2005, he became aware that I was the client and I lived in Malabo, Equatorial Guinea. Hence, the statement of his invoice, marked "PMA2", dated 29 September 2005, was addressed to me. I would ask the Court to MacNamara's affidavit as if it is specifically incorporated herein.



EMPLOYMENT CONTRACTS WITH SERVICE PROVIDERS

30 In order that there would be somebody in South Africa who would take care of my affairs, including the management of the two properties, I employed Ms Illana Jeftha as my Personal Assistant. I attach hereto a copy of her affidavit and its annexure, marked "TNO14", and would ask the Court to read it as if it is specifically incorporated herein.

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31 In paragraph 2.10 of the APPLICANT'S NOTE, he states:

"2.10 Second: *The property is in any event for the time being in use or intended for use for commercial purposes*". The houses are being used to entertain government guests, friends and dignitaries visiting Cape Town and not for any diplomatic purpose pursuant to the exercise of sovereign authority:



"2.10.1 Accordingly, the property is being used for 'commercial, industrial, financial, professional or other similar activity into which the foreign state enters or in which it engages otherwise than in the exercise of sovereign authority' in terms of section 3 of the Act."

32 As can be seen from the contents of the affidavit of Peter MacNamara and Illana Jeftha, both houses were in need of extensive renovations and refurbishments. They were not in a fit state to carry out any entertainment therein. Accordingly, the contents of paragraphs 2.10 and 2.10.1 quoted above – that they were being used for entertaining government guests, friends and dignitaries - are nothing else but a tissue of lies.

33 And typical of the applicant's founding papers – no supporting evidence is given at all for the assertion that the properties are for the time being in use or intended for use for commercial purposes.

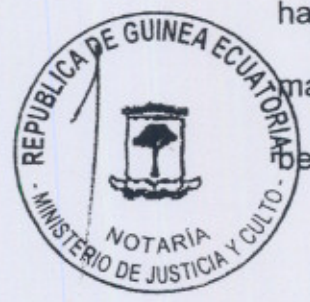
34 I entered into contracts in my own name with private service providers for services to be rendered at the two properties: I attach hereto, marked "TNO15", a copy of a **QUOTATION**, addressed to me, for garden clean up and maintenance from Cultura Scapes, of Marina Da Gama, Cape Town, dated 21 June 2004, which I accepted. I terminated this contract on 17 July 2005 by letter signed by me, a copy of which is attached, marked "TNO16". I immediately thereafter contracted with GD Gardening Services, Brackenfell Cape Town. I personally signed the contract on 18 July 2005. I attach hereto a copy of it, marked "TNO18".



35 I also entered into contract with Magen Security of Johannesburg to provide 24 hr armed guard dog security at both premises. I personally terminated that contract on the 17 July 2005. I attach copies of the contract and the letter of termination, marked "TNO19" and "TNO20", respectively.

36 I replaced Magen Security with Herman Dippenaar, whose duties were to be supervisor of security at both properties. I attach a copy of the contract and acknowledgement of receipt of salary from me by Dippenaar, marked "TNO21" and "TNO22".

37 I have demonstrated to this Honourable Court by documentary evidence that I purchased these two properties with my own funds, spent my own moneys renovating them, and entered into contracts in my own name with service providers. I submit that had I been given an opportunity at the time the application was made to make these submissions, the properties would not have been attached at all.



STATE IMMUNITY

38 In respect of the submission that the Court was misled on the question of state immunity in respect of a property owned by a foreign state in South Africa, I am advised that s 14(1) of the Act provides that –

- “(b) The property of a foreign state shall not be subject to any process –
 - (i) for its attachment in order to found jurisdiction;
 - (ii) for the enforcement of a judgment or an arbitration award; or

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(iii) in an action in *rem*, its attachment or sale."

39 In view of the provisions of the above section, it is inconceivable that the Government of Equatorial Guinea would have gone through the farce of using me to purchase property on its behalf when, in fact, the Ambassador to South Africa could have purchased these two properties in Cape Town on behalf of the Government of the Republic of Equatorial Guinea for ambassadorial use.

40 I am advised that in that case all the Ambassador for the Republic of South Africa would have to do was to comply with s 12 of the Diplomatic Immunities Act, and Privileges Act of 2001, and the properties would have been recognised for the use of an embassy, official residence and thus fall under the provisions of s 14(1)(e)(i), (ii) and (iii) of this Act. The Government of Equatorial Guinea has enough funds to purchase properties in Cape Town for ambassadorial use.



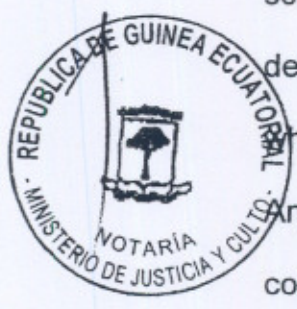
41 Furthermore, as a matter of common sense, I found it a startling proposition that entertaining visiting colleagues in my own properties or permitting the Ambassador to do so would amount to using the premises "in a commercial, industrial, financial,

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professional or other similar activity into which a foreign state enters into or in which it engages otherwise in the exercise of sovereign authority” in terms of s 3 of the Act. It would seem that insofar as the applicant is concerned, every wealthy South African who has got residential properties abroad and happens to entertain government officials therein, runs the risk of those properties being the subject of an attachment, should the Government of South Africa find itself the subject of litigation on a contractual matter with a company abroad.

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The applicant alleged in his founding affidavit that I contrived a scheme to mislead the Third Respondent by recording the title deeds to make it appear as if I am the owner of the properties when in truth the owner is the Government of Equitorial Guinea. And in those circumstances these are acts of a sham deal, committed in fraudem creditorum and should be set aside at the instance of any affected third party by such fraud.



43

I am advised that a party who alleges fraud must not only make the allegation but must also prove it clearly and distinctly, as fraud is not easily inferred. It will be submitted at the hearing of this application to set aside the attachment order, that the applicant has fallen far short of meeting this basic legal requirement. He has

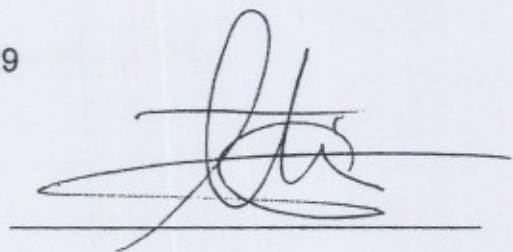
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not produced an iota of evidence of fraud but has misled the Court, through a series of insinuations and lies, into believing that there was this conspiracy between myself and the first respondent, to fraudulently misrepresent to estate agents, conveyancing attorneys, Financial Services Board and the third respondent, as to the true ownership of the properties and the true source of the purchase moneys.



CONCLUSION

44 I respectfully submit, therefore, that the failure by the applicant to disclose all relevant material facts to the Court, as required in *ex parte* applications, its reliance on unsubstantiated hearsay evidence and bare-faced lies, would entitle this Honourable Court to exercise its discretion in favour of the second respondent, setting aside the rule *nisi* and/or rescinding it.



DEPONENT

Signed and sworn before at **MALABA, EQUATORIAL GUINEA**, this ___ day of June 2006 after the Deponent declared that he is familiar with the contents of this statement and regards the prescribed oath as binding on his conscience and has no objection against taking the said prescribed oath. There has been compliance with the requirements of the Regulations contained in Government Gazette R1258, dated 21 July 1972 (as amended).

COMMISSIONER OF OATHS:

FULL NAMES:

CAPACITY:

ADDRESS:



VISTO Y LEGALIZADO
MALABO 20 DE 07 DE 2006
EL JUEZ DE 1ª INSTANCIA



[Handwritten signature]

It faithfully agrees with its original which I refer to and for the interested party, I issue the present copy in 30 folios of common paper, duly reintegrated the first, in other that it has the corresponding effects when and wherever it may be necessary. I GIVE FAITH



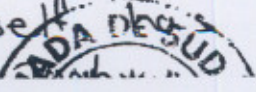
[Handwritten signature]

VISTO, en la Sección General del Ministerio de Asuntos Exteriores y Cooperación de la República de Guinea-Ecuatorial, Buena para legalizar la firma de NOTARIO por ser al parecer, la suya auténtica. Malabo 20 de 07 de 2006
EL DIRECTOR GENERAL



[Handwritten signature]

I, the undersigned Christine Antoinette Vivier, First Secretary: Administration and Consular at the South African Embassy, Malabo hereby certify that Mr Eusebio Ondo Oyono, passport number 104/02-D6 of whose identity I have satisfied myself signed in front of me today 20th July 2006.



(Official Translation)

**REPUBLIC OF EQUATORIAL GUINEA
MINISTRY OF JUSTICE AND CULT**



Number 2162

AUTHORIZED COPY

OF

LEGALIZATION OF AUTHENTICITY OF SIGNATURE.-
GRANTED BY

MR. TEODORO NGUEMA OBIANG
IN FAVOR OF

THE SAME
AUTHORIZED BY

MR. PEDRO NSUE ELA EYANG
NOTARY WITH RESIDENCE IN MALABO
INSULAR REGION

In Malabo, on July 19th, 2006