



**MINISTRY
JUSTICE AND CORRECTIONAL SERVICES
REPUBLIC OF SOUTH AFRICA**

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Ref: 2/1/3 (March 2018)
Enq: X1700
Email: Ministry@justice.gov.za

Mr L Claasen
Parliament of the RSA
P O Box 15
CapeTown
8000




Dear Mr Claasen

***PROVISIONAL SUSPENSION FROM OFFICE: MS L B FREEMAN, SENIOR MAGISTRATE,
MOSSSEL BAY***

The purpose of this letter is to provide Parliament with a report to be tabled in Parliament in terms of section 13(3)(b) of the Magistrates Act, No 90 of 1993. The report is attached.

Yours sincerely


Ms Judith Tshabalala
Parliamentary Liaison Officer
Date: 07/03/2018

Cell: 0718524919
Email: JudTshabalala@justice.gov.za



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Ref: 3/26/5/5 (n050302)
Enq: X1700
Email: Ministry@justice.gov.za



The Honourable Ms T R Modise
Chairperson of the National Council of Provinces
Parliament of the RSA
CAPE TOWN
8000

Dear Ms Modise

***PROVISIONAL SUSPENSION FROM OFFICE: MS L B FREEMAN, SENIOR MAGISTRATE,
MOSSEL BAY***

The purpose of this letter is to provide Parliament with a report to be tabled in Parliament in terms of section 13(3)(b) of the Magistrates Act, No 90 of 1993. The report is attached.

Yours sincerely

**T M MASUTHA, MP (ADV)
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES**

DATE: 27./03/2018



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JUSTICE AND CORRECTIONAL SERVICES
REPUBLIC OF SOUTH AFRICA**

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Ref: 3/26/5/5 (n050302)
Enq: X1700
Email: Ministry@justice.gov.za

The Honourable Ms B Mbete
Speaker of the National Assembly
Parliament of the RSA
CAPE TOWN
8000



Dear Ms Mbete

**PROVISIONAL SUSPENSION FROM OFFICE: MS L B FREEMAN, SENIOR MAGISTRATE,
MOSSEL BAY**

The purpose of this letter is to provide Parliament with a report to be tabled in Parliament in terms of section 13(3)(b) of the Magistrates Act, No 90 of 1993. The report is attached.

With kind regards

**T M MASUTHA, MP (ADV)
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES**

DATE: 27/03/2018



PROVISIONAL SUSPENSION FROM OFFICE: MS LB FREEMAN, SENIOR MAGISTRATE, MOSSEL BAY

1. PURPOSE

The purpose of this report is to:-

- 1.1.1 Inform Parliament on the provisional suspension from office of Ms LB Freeman, Senior Magistrate at Mossel Bay, pending the outcome of an investigation into her fitness to hold office as a magistrate, as required by section 13(3)(b) of the Magistrates Act, 90 of 1993 (the Act).
- 1.1.2 Request Parliament to pass a resolution as to whether or not the provisional suspension of Ms Freeman is confirmed.

2. BACKGROUND

- 2.1 Ms Freeman is a Senior Magistrate and the Judicial Head of Office at the Mossel Bay District Court. She is 42 years of age and has been appointed to the lower court bench on 24 October 2006. She was appointed a Senior Magistrate at Mossel Bay on 01 May 2017.
- 2.2 Having conducted a preliminary investigation and having considered the preliminary investigation report submitted to the Magistrates Commission (the Commission) in this regard, the Commission resolved to charge Ms Freeman with misconduct. A charge sheet dated 17 November 2017, containing 24 counts of misconduct, was personally served on Ms Freeman on 23 November 2017. The misconduct inquiry against her commenced on 21 February 2018.

3. DISCUSSION

- 3.1 The misconduct charges preferred against Ms Freeman relate to various acts of dishonesty in that she:

a) during the period 2015 to 2017 made numerous false and/or incorrect statements, knowing them to be false and/or incorrect in that she submitted transport/ travel claims to the Department of Justice and Correctional Services (the Department) for payment in respect of kilometres travelled in excess of the actual distances she was entitled to claim for;

b) on 10 August 2017 submitted a transport claim for payment, claiming that she on 09 June 2017 conducted an inspection in loco whilst in truth and in fact no such inspection in loco took place;

c) according to a transport claim dated 29 November 2016, falsely and/or incorrectly claimed that she on 08 and 15 November 2016 travelled with her Audi A4 motor vehicle with an engine capacity of 2000cc, whilst in truth and in fact she travelled with an Uno, which motor vehicle has a lower engine capacity than the Audi A4;

d) on 26 May 2016, when completing her application form for an appointment as Senior Magistrate, on a request to list all directorships she holds and/or any other interests in business, failed to disclose the fact that she has been registered as an active director and founding member of a Company, to with Southern Cape Fish Co-operative Limited, and

e) in the aforementioned application form stated that she had never been convicted of a criminal offence, whilst in truth and in fact she was convicted of theft during 1993 and sentenced by a court of law.

3.2 I have been advised that the Commission has reported the matter to the South African Police Service (SAPS) for investigation.

3.3. On 13 October 2017, Ms Freeman was, in compliance with the rules of natural justice, invited to furnish the Commission with representations why the Commission should not recommend that she be provisionally suspended from

office and why the Commission should not determine to withhold her remuneration. A copy of the correspondence in this regard and her representations dated 24 October 2017 are attached.

(13 October 2017; 24 October 2017)

- 3.4. Having due regard to the serious nature of the allegations, the totality of the information at hand and Ms Freeman's representations, the Commission's Executive Committee resolved to recommend that Ms Freeman be provisionally suspended from office in terms section 13(3)(a) of the Act. The Commission's Executive Committee did not make a determination to withhold her remuneration.
- 3.5. The Commission is of the view that the existing evidence against Ms Freeman is of such a serious nature as to make it inappropriate for her to perform the functions of a Magistrate while the allegations are being investigated. Without anticipating the outcome of the investigation into her fitness to hold the office of Magistrate, Commission is of the view that the existing evidence against Ms Freeman is of such a serious nature that it would justify her removal from office, should she be found guilty of the misconduct charges which are preferred against her.

4. AUTHORITY TO PROVISIONALLY SUSPEND

- 4.1 In terms of section 13(3)(a) of the Act, the Minister, on the advice of the Magistrates Commission, may provisionally suspend a magistrate from office if-
- “(i) the Commission, after affording the magistrate a reasonable opportunity to be heard regarding the desirability of such provisional suspension, is satisfied that reliable evidence exists indicating that an allegation against that magistrate is of such a serious nature as to make it inappropriate for the magistrate to perform the functions of a magistrate while the allegation is being investigated; and
- (ii) an investigation has been instituted by the Commission into such magistrate's fitness to hold office.”

- 4.2 A report in which the provisional suspension and the reasons therefore are made known, must, in terms of section 13(3)(b) of the Act, be tabled in Parliament by the Minister within 7 (seven) days of such suspension, if Parliament is then in session, or if Parliament is not then in session, within 7 (seven) days after the commencement of its next ensuing session.
- 4.3 Parliament must, as soon as reasonably possible pass a resolution as to whether or not the provisional suspension of the magistrate is confirmed. If Parliament passes a resolution that the provision suspension is not confirmed, then the suspension lapses.

5. CONCLUSION

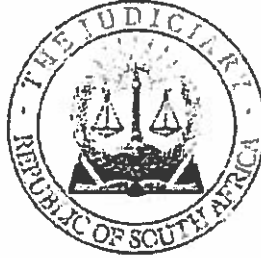
- 5.1 In light of the above, I have decided to provisionally suspend Ms LB Freeman, Senior Magistrate at Mossel Bay from the office of Magistrate with immediate effect, pending the outcome of an investigation into her fitness to hold such office.
- 5.2 This report is submitted in terms of section 13(3)(b) of the Act, for consideration by Parliament in terms of section 13(3)(c) of the Act, and to pass a resolution as to whether or not the provisional suspension of Ms Freeman is confirmed.

Given under my hand at *CAPE TOWN* on this... *27*... day of March 2018.



TM MASUTHA, MP (ADV)

MINISTER FOR JUSTICE AND CORRECTIONAL SERVICES



(13 October 2017)

**MAGISTRATES
COMMISSION**

**LANDDROSTE-
KOMMISSIE**

P O BOX/POSBUS 9096, PRETORIA, 0001

☎ (012) 325 3951

FAX/FAKS (012) 325 0094

┌
Ms LB Freeman
Mossel Bay Magistrates' Court
Private Bag X11
MOSSEL BAY
6500
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Reference : 6/5/5/2 – 27/2016
Verwysing

Enquiries : A Louw
Navrae

Date : 13 October 2017
Datum

Dear Ms Freeman

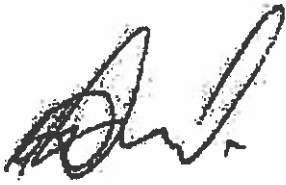
PROVISIONAL SUSPENSION FROM OFFICE: YOURSELF

1. You have been appointed as magistrate with effect from 20 October 2006 while you have been promoted to the grading of senior magistrate with effect from 01 May 2017.
2. An investigation has already been instituted by the Magistrates Commission (Commission) into your fitness to hold office of which you were informed on 31 January 2017 and 03 October 2017 and given reasonable opportunity to be heard.
3. Reliable *prima facie* evidence exists indicating that the allegations against you are of such a serious nature as to make it inappropriate for you to perform the functions of a magistrate while the investigation is being finalized and a misconduct charge sheet be prepared and approved.
4. In view hereof you are requested to show cause why it should not be recommended to the Commission that you be provisionally suspended from office without remuneration in terms of section 13(3)(a) of the Magistrates Act, No. 90 of 1993 pending the finalization of the inquiry into your fitness to hold office as Magistrate.
5. Your written submission, if any, should reach this Office on or before 25 October 2017.

2.

6. Should you fail to reply within the stipulated period it will be deemed that you do not wish to submit any representations.

Yours faithfully

A handwritten signature in black ink, appearing to be 'A Louw', written in a cursive style.

A LOUW
MISCONDUCT DIVISION: MAGISTRATES COMMISSION

(24 October 2017)

Louw Andre

From: Freeman Liticia
Sent: 24 October 2017 02:59 PM
To: Alman Helen
Cc: Bosman DeVilliers; Louw Andre
Subject: RE: PROVISIONAL SUSPENSION: L B FREEMAN: OUR REF 6/5/5/2-17/2015

Dear Mrs Alman

I acknowledge receipt of your email dated the 13.10.2017 and responds as follow:

I have to admit that I was shocked by the drastic measures considered by the Commission. I'm not sure exactly what I will be charged with or what the evidence is against me but with the information to my disposal at the moment I don't see how I can interfere in any pending investigation against me. I'm also of the opinion that suspending me at this stage will have serious consequences for the administration of justice as I have several partly-heard matters in different towns. Some of which are at a critical stage, some where private attorneys are involved and also where accused are in custody. I also have pending civil court matters that will have financial implications for parties involved.

I would also like to believe that since I took up the post as Senior Magistrate there was not any queries or problems with regard to my work. I have worked very hard the past few months to establish mutual trust relationships with the different departments and role players that we engage with on a daily basis. I have projects running with the Welfare Dept as well as SAPS that is really just getting of the ground and will collapse if I'm not there to drive it any longer. I've been working very hard at finding my feet in the new job and to do a good job and it would be a shame if all my efforts up to now will result to nothing due to my absence. Plus I already have contingency plans in place for magistrates who are on leave during December and January which require me to deal with most of their courts due to a shortage of relief staff during that time in order to allow them to take their desired leave. We also have a problem with regard to Heidelberg court for the first part of November where I will also have to assist as far as possible. I always try to keep the courts running to the maximum even if it means I have to jump in myself.

With regard to the consideration of suspension without remuneration I urge you to not consider that. I have no other form of income. I'm not married and the sole breadwinner of my household and my baby sister is staying with me and is totally dependent on me. My parents also rely on my financial support. Without an income I will literally be out on the street and won't be able to honour any of my financial commitments. Considering the fact that I'm not found guilty of anything yet, ruining me like that will be quite drastic. Especially since it is unclear how long it will take to finalize the investigation and drawing up charge sheets. There is no way that I'll be able to survive without an income so I ask that you please don't deal lightly with this issue.

Hope you find the above in order and I ask that you seriously consider the pros and cons of a drastic decision such as suspension. Thank you.

Kind regards

Liticia Benita Freeman
Senior Magistrate Mosselbay
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