

IN THE CONSTITUTIONAL COURT OF ZAMBIA

2022/ CCZ/ 006

HOLDEN AT LUSAKA

(Constitutional Jurisdiction)



IN THE MATTER OF:

THE CONSTITUTION OF ZAMBIA, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA

IN THE MATTER OF:

ARTICLES 1(5), 128, 173(1)(a)(c)(g), 180(7), 216(c) and 235(b) OF THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1 OF THE LAWS OF ZAMBIA

IN THE MATTER OF:

THE STATE PROCEEDINGS ACT, CHAPTER 71, VOLUME 6, OF THE LAWS OF ZAMBIA

IN THE MATTER OF:

SECTION 8 OF THE CONSTITUTIONAL COURT ACT, 2016 OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA

BETWEEN:

MILINGO LUNGU

PETITIONER

AND

ATTORNEY GENERAL

1st RESPONDENT

BOYD MUNALULA

2nd RESPONDENT

THE DRUG ENFORCEMENT COMMISSION

3rd RESPONDENT

AFFIDAVIT VERIFYING FACTS

I MILINGO LUNGU, of Plot Number 22763 Off Mulungushi Road Roma in the city and Province of Lusaka **DO HEREBY MAKE OATH AND SAY AS FOLLOWS;**

1. That my full names and address are as above
2. That I am a Zambian National
3. That I am the Petitioner herein and thus competent to swear this my affidavit
4. That the Petitioner is a Zambian national and formerly Provisional Liquidator for Konkola Copper Mines Plc (In Provisional Liquidation).
5. That On or about the 21st of May, 2019, the High Court for Zambia by way of a Court Order appointed the Petitioner as Provisional Liquidator for Konkola Copper Mines Plc (In Provisional Liquidation).
6. That the Order setting out my appointment set out the powers that I had which among others include:
 - (i) The power to carry on the business of Konkola Copper Mines Plc (In Provisional Liquidation)
 - (ii) Make any compromise or arrangements with creditors
 - (iii) Make any agreements on all questions in any way relating to or affecting the company or its assets

Now shown and produced is a copy of the said Order marked "ML 1"

7. That following the said Order in paragraph 6 above I proceeded to take office and started to carry out my functions.
8. That the office of the Official Receiver was engaged to determine the Remuneration as regards the performance of my services.
9. That It was agreed with the Official Receiver that I shall be entitled to the following:
 - (a) An Advance against commission equivalent to the gross salary of the Chief Executive officer
 - (b) A commission of 5% on the sale of any Konkola Copper Mines Plc (In Provisional Liquidation) asset.
10. That by addendum dated 17th February, 2021, the agreement in paragraph 9 above was varied by the increment of the rate of commission from 5% to 10%. now shown and produced is a copy of the said letter, agreement and addendum to the remuneration agreement collectively marked "ML 2"
11. That I as provisional liquidator made drawings against the total receivables due from Konkola Copper Mines Plc (In Provisional Liquidation) including K4,400,000 and K17,250,000 which later became the subject of criminal charges by the 3rd Respondent. Now shown and produced is the indictment relating to the said charged marked "ML 3"
12. That I did, on or about 18th August, 2021 submit invoices to Konkola Copper Mines Plc (In Provisional Liquidation) in respect of work and services provided as Provisional Liquidator.
13. That On or about 30th August, 2021 I learnt through media reports that the Financial Intelligence Centre then under the leadership of Ms Mary Chirwa without reasonable justification made a decision to freeze all Konkola Copper

Mines Plc (In Provisional Liquidation) Accounts, Lungu Simwanza Accounts both Office and clients accounts and the petitioners' personal accounts. Now shown and produced is a copy of the Diggers Newspaper which carried the story of the seized accounts marked "ML 4"

14. That the accounts included:

- (i) 62521609365 FNB Account in the name of Lungu Simwanza and Company
- (ii) 62521203290 FNB Account in the name of Lungu Simwanza and Company
- (iii) 62521609125 FNB Account in the name of Lungu Simwanza and Company
- (iv) 62322149677 FNB Account in the name of Lungu Simwanza and Company
- (v) 62521608870 FNB Account in the name of Lungu Simwanza and Company
- (vi) 62827288326 FNB Account in the name of Lungu Simwanza and Company
- (vii) 62694542731 FNB Account in the name of Lungu Simwanza and Company
- (viii) 025-1155224 ABSA Account in the name of Lungu Simwanza and Company
- (ix) 025-1095663 ABSA Account in the name of Lungu Simwanza and Company
- (x) 9130004809223 Stanbic Bank Account in the name of Lungu Simwanza and Company

(xi) 9130004094836 Stanbic Bank Account in the name of Lungu Simwanza and Company

(xii) 62420139372 FNB Account in the name of Milingo Lungu

(xiii) 9130002716147 Stanbic Bank Account in the name of Milingo Lungu

15. That following the events in paragraph 13 and 14 above, I instructed by lawyers to write to them and My lawyers Makebi Zulu Advocates wrote to the Financial Intelligence Centre through on or about the 26th August, 2021 and copied the 3rd Respondent and other law enforcement agencies informing them the source of funds in the accounts and enclosing the remuneration agreement as well as the invoices attendant to the same. Now shown and produced is a copy of the said letter marked "ML 5"

16. That On or about the 30th August, 2021 the 3rd Respondent proceeded to place seizures on the said accounts referred to in paragraph 14 above and never notified me at any time and they have not informed me to date of the said seizures and or the reason for the said seizures.

17. That the seizures effected by the 3rd Respondent were equally without Justification as same were *unjustified malafide and unreasonable* as at the time of such seizure, as they were in possession of the letter written on my behalf explaining the source of funds in the seized accounts.

18. That at the time of the seizures by the Financial Intelligence Centre, the information of the said action and the account details involved found itself in the News Diggers Newspaper of September, 2021.

19. That following these events, I requested and was granted permission to hold a meeting with His Excellency The president of The Republic of Zambia Mr Hakainde Hichilema and present at the meeting were, The Vice President Mrs

Mutale Nalumango, the Minister of Finance Dr. Situmbeko Musokotwane and Mr. Bradford Machila.

20. That in the said meeting inter alia I informed them that my position was untenable considering the ongoing investigations to which the President advised that he would revert at the earliest.
21. That On or about the 2nd of September, 2021, a team of Officers from the 3rd Respondent went to the Konkola Copper Mines Plc (In Provisional Liquidation) Chingola office and proceeded to make various searches and interviews from the 2nd to the 20th of September, 2021 for purposes of what they called investigations.
22. That On or about 28th September, 2021, a team of officers from the 3rd Respondent visited me at the Konkola Copper Mines Plc (In Provisional Liquidation) offices in Lusaka and had in their possession a search warrant for the office, my house and the Lungu Simwanza and Company office.
23. That the total number of officers from the 3rd Respondent were five and the team was led by The 2nd Respondent, Henry Mtonga, Roberto Malilwe and two other persons
24. That the search warrant was pre signed by the Director General of the 3rd Respondent, filled out in my and was drawn from a book which is the property of the 3rd Respondent
25. That I requested to have the services of a lawyer and the 2nd Respondent declined the request.
26. That at that point, the team proceeded to conduct their search and they did not indicate what they were looking for.

27. That the team then proceeded to seize various books and correspondence and the Konkola Copper Mines Plc (in Provisional Liquidation) Laptop that I used for my work.
28. That from there, the team requested to go to my home and Roberto Malilwe an officer from the 3rd Respondent jumped into my vehicle in the drive to my House.
29. That they conducted a search at my premises where they got various documents, electronic gadgets such as laptops iPads as well as my fire arm.
30. That the team then proceeded with me to the offices of Lungu Simwanza and Company where they seized various documents which they claimed were of interest to them.
31. That the team then asked me to accompany them to the 3rd Respondents offices in Ridgeway.
32. That on the said day, the 3rd Respondent effected an arrest on me and the offence with which I was charged was theft and police bond was given. Now shown and produced is a copy of the police bond marked "ML 6"
33. That on or about 12th October, 2021 I appeared in court and the prosecution was not ready as they had no docket of case before them.
34. That I wrote to the Director General of the Drug Enforcement Commission through his other Lawyers, Central Chambers on or about the 14th October, 2021 complaining about their conduct and implored them to take the matter to Court.
35. That On or about the 20th October, 2021, I appeared and the matter was allocated to Hon. F. Kaoma in Court 6 at the subordinate Court in Lusaka

where I took plea and the matter was adjourned for commencement of trial to the 26th October, 2021.

36. That On or about the 26th October, 2021, trial in the matter commenced.

37. That notwithstanding the fact that there was an arrest and the matter was in Court, the 3rd Respondents officers continued investigation the same matter that was in court and I raised concern by way of a letter written by his lawyers Central Chambers. Now shown and produced is the said letter marked "ML 7"

38. That the 3rd Respondent further proceeded to effect another arrest on

39. That as this matter was on going, the 3rd Respondent called me once again, this was on or about the 2nd day of December, 2021 and effected another arrest which included the following charge:

(i) Theft contrary to section 272 and 278 of the Penal Code chapter 87 of the Laws of Zambia

40. That following the arrest on the 2nd December, 2021, I discovered that an account in the name of Lungu Simwanza and Company held at ZANACO Acacia branch being account No. 5791753500168 was also seized by the Drug Enforcement Commission

41. That since all my accounts had been seized, I decided to open two accounts at Zanaco Northmead branch into which my remuneration was to be paid. These were a Kwacha and Dollar account being account numbers 0587239200271 and 587239200377 respectively.

42. That On or about 16th December, 2021, I was notified that the two accounts set out in paragraph 38 above had been restricted by an order from the Financial Intelligence Centre. Now shown and produced is a copy of a letter from the bank marked "ML 7"

43. That thereafter I learnt that the accounts set out in paragraph 41 above were later on frozen by the 3rd Respondent.
44. That the 3rd Respondent conducted investigations which revealed no impropriety in the acquisition of the funds in the accounts and wrote to Zanaco Northmead branch directing them to unfreeze the accounts and reopen them.
45. That Upon appointment of the current Director General Ms Mary Chirwa who is the immediate past Director General at the Financial Intelligence Centre, the accounts that were re-opened at Zanaco Northmead branch were frozen again without justification.
46. That On or about 4th January, 2022, I was invited to a meeting with the Solicitor General and present therein was the Petitioner, His Lawyer Mr. Lusenga Mulongoti and the Solicitor General Mr. Marshal Muchende, SC at which the issue of my resignation was discussed.
47. That in the said meeting, the Solicitor General mentioned that he was discussing the matter at the instance of the President of the Republic of Zambia and as a follow up to the meeting that I had with the President as set out in paragraph 19 above.
48. That offer to resign and attendant conditions discussed in the meeting was reduced in writing in a letter to the Attorney General wherein I offered to resign on condition that there was a clean break with issues and matters relating to Konkola Copper Mines Plc (In Provisional Liquidation).
49. That Before the events set out in paragraph 46 above, the Official Receiver did on or about the 8th November, 2021 write to me then as Provisional Liquidator,

giving notice of a supervisory visit to Konkola Copper Mines Plc (In Provisional Liquidation) and the said report as well as the findings have never been made available to me.

50. That as the matter was proceeding before Hon F. Kaoma, the state made an application that the matter which was scheduled for the 10, 11, and 12th January, 2022 be adjourned to facilitate an ex-curia discussion and reach an amicable settlement as regards the said matter before Court.
51. That Following the events in paragraph 46, 47, 48 and 50 above, the Attorney General Mr. Mulilo Kabesha, SC called for a meeting on or about 11th January, 2022 at his Chambers at the Ministry of Justice headquarters.
52. That Present in the said meeting was The Attorney General Mr. Mulilo Kabesha, SC as Chairman of the meeting, Mr Martin Lukwasa Director of International Law Agreements, Mr Gamaliel Zimba Deputy Chief State Advocate at Director of Public Prosecutions Chambers, Mr Sipholiano Phiri State Advocate at DPP's Chambers, Mr. Sakwiba Sikota, SC of Central Chambers, Mr. Moses Chitambala of Lukona Chambers and the Petitioner.
53. That the meeting could not reach any settlement owing to the objection by representatives of the office of the Director of Public Prosecutions to the effect that issues surrounding criminal proceedings could only be dealt with exclusively by the Director of Public Prosecutions chambers.
54. That in addition to the meeting above for negotiations, the 4th Respondent wrote to me inviting me to a meeting to negotiate my resignation as well as the terms thereof Now shown is the letter marked "ML7"
55. That On or about the 9th March, 2022 the 4th Respondent wrote to me in my capacity as Provisional Liquidator informing me of my suspension and in turn I

wrote back to the Administrator General informing her that she could not suspend me as she had no such power. Now shown and produced are copies of the said letters collectively marked "ML 8"

56. That following events in paragraph 55 above, I wrote to the major banks informing them that they should not transact on the said accounts until the dispute with the 4th Respondent was resolved.

57. That following the write up to the various banks, a meeting was called on the 14th March 2022 by the Solicitor General, Mr. Marshal Muchende. SC, at his chambers at Ministry of Justice Headquarters and in attendance were, The Principle Private Secretary at State House Mr. Bradford Machila, Mr Lusenga Mulongoti, the Solicitor General Mr. Marshal Muchende, SC and the Petitioner.

58. That the Solicitor General informed the meeting he together with the Principal Private Secretary had been tasked by the President to deal with the subject matter of my resignation from Konkola Copper Mines Plc(In Provisional Liquidation)

59. That in the said meeting, an agreement was reached as regards how I was to exit as Provision Liquidator of Konkola Copper Mines PLC (In Provisional Liquidation).

60. That it was agreed that, an agreement detailing the terms of the exit would be drawn up, that there would be a determination of what i was entitled to as my fees, which could only be ascertained by an Audit of what he had drawn and what was remaining.

61. That to facilitate this process and ensure full and frank disclosure, the State would support a decision by the Director of Public Prosecutions to give full immunity against prosecution and any further investigations relating to all acts

done by myself in my capacity as Provisional Liquidator of Konkola Copper Mines Plc (In Provisional Liquidation)

62. That an issue arose as to how the criminal proceedings were to be dealt with since the DPP was not part of the meeting and the Solicitor General gave a response to the effect that the DPP was an independent office and it would be unconstitutional for the Executive to give her directives on how to handle the matters. Secondly, the President did not want it to appear that there was a quid pro quo agreement and any determination that the Director of Public Prosecutions reaches should be independent and should be done independently.
63. That Mr. Machila then stated that he needed to seek consent from the President on the proposed agreement and that is how the meeting ended.
64. That the following day, Mr Lusenga Mulongoti, my lawyer called me and advised that he had been contacted by Mr. Christopher Mundia, the Special Assistant to the President for Legal Affairs for a meeting to be held at 15 hrs on that day.
65. That the said meeting was held and present in the meeting was the Petitioner, Mr. Lusenga Mulongoti, Mr Christopher Mundia and Ms Nedziwe the Chief Policy Analyst Legal at State House.
66. That in the meeting Mr Mundia advised that he had been sent by the President to conclude the matter relating to my resignation and he presented to me a draft agreement containing terms of my resignation as well as a draft resignation letter.
67. That I then requested for clarification as to how the criminal matters were to be resolved and Mr Mundia advised that he had no instructions regarding the criminal matters and at that point, I declined to sign the documents as the

agreement reached earlier included an undertaking by the state to support the dropping of charges and this led to the adjournment of the meeting.

68. That following this, the next day Mr Lusenga Mulongoti, my lawyer wrote to the DPPs chambers advising that a stalemate had been reached regarding the resolution of the dispute between myself and the State in relation to Konkola Copper Mines Plc (In Provisional Liquidation) .Now shown and produced is a copy of the said letter marked "ML 9"

69. That further to this a letter was also written to the Attorney general on this subject. Now shown and produced is a copy of the said letter marked "ML 10"

70. That the stalemate related to how the criminal investigations, charges and prosecutions were to be treated.

71. That Mr. Lusenga Mulongoti informed the Director of Public Prosecutions that the parties had agreed to conduct an audit and a reconciliation in respect to what i was owed and what he had so far received and in order for me to participate in the reconciliation without the risk of self incrimination, the DPP needed to grant me an indemnity/immunity in relation to any criminal investigations, charges and or proceedings relating to Konkola Copper Mines Plc (In Provisional Liquidation).

72. That the Director of Public Prosecutions was also informed that the State was in support of the dropping of the charges and investigations to facilitate the audit and the reconciliation as agreed by the parties.

73. That shortly after that Mr Mundia reverted to Mr Lusenga Mulongoti advising that he had received instructions in relation to the criminal charges as follows:

- (i) I was to resign from my position as provisional liquidator as a show of good faith to the state.

(ii) The arrangement was not going to be a quid pro quo but the state was going to support any decision of the Director of Public Prosecutions that involved the dropping of the charges

74. That it was on the basis of the above that a meeting was called on the said day at 17hrs and in attendance were, myself, His Lawyer Mr. Lusenga Mulongoti, Mr Mundia and Mrs Nezwiwe wherein a consent settlement agreement was executed and a resignation letter signed.

75. That the consent settlement agreement and the resignation letter were pre drafted by Mr Christopher Mundia and were simply handed over to me for execution.

76. That the consent settlement agreement was already signed by the 4th Respondent and I simply signed my part in the presence of Mr. Christopher Mundia and Mrs Nedziwe.

77. That I signed the resignation letter and handed it over to Mr. Christopher Mundia. Now shown and produced is a copy of the settlement agreement and the resignation letter collectively marked "ML 11"

78. That on the 21st March 2022, Mr. Chitambala went to see the DPP at her Chambers to follow up on the letter written by Mr Mulongoti requesting the DPP to give consideration to the request for grant of immunity at which point the DPP informed him that she was still considering the matter.

79. That on or about the 22nd March, 2022, Mr Chitambala and I were summoned to the Director of Public Prosecutions chambers where we were informed by the DPP that in consideration of the Petitioners resignation and decision to submit himself to an audit and reconciliation which required full and frank disclosure and at the risk of self incrimination, she had decided to grant the petitioner

immunity in relation to all acts done in the performance of his duties as provisional liquidator for Konkola copper mines Plc (In Provisional Liquidation)

80. That an agreement was then executed. Now shown and produced is a copy of the said agreement marked "ML 12"

81. That following the agreement Mr. Sipholiano Phiri on behalf of the Director of Public Prosecutions and the Petitioner, Nolle Prosequis was entered in all matters before Court.

82. That following this, officers from the 3rd Respondent lead by a Mr. Mukelebai called me to their offices and the 2nd Respondent arrested me on the 7th April 2022 for the same or similar offences as those for which I was appearing before Hon Felix Kaoma

83. That in addition to those charges which were in Hon Felix Kaoma's Court, the 3rd Respondent in its warn and caution alleged that the funds that were allegedly stolen from Konkola Copper Mines Plc were used to purchase property which formed the subject of the offence of being found in possession of property reasonably suspected to be proceeds of crime

84. That during the interview and arrest, I was advised that I am still required to answer further allegations and charges in relation to matters that were still under investigation.

85. That after the arrest I was denied bond and advised that I would appear in Court in the afternoon of the same day of arrest but the 2nd Respondent and other senior officers of the 3rd Respondent disappeared, did not appear at Court as advised and the 2nd Respondent switched off his phone.

86. That on the next day the 8th April 2022, I was arraigned before Hon Stafford Ngobola for the offence of being found in possession of property reasonably

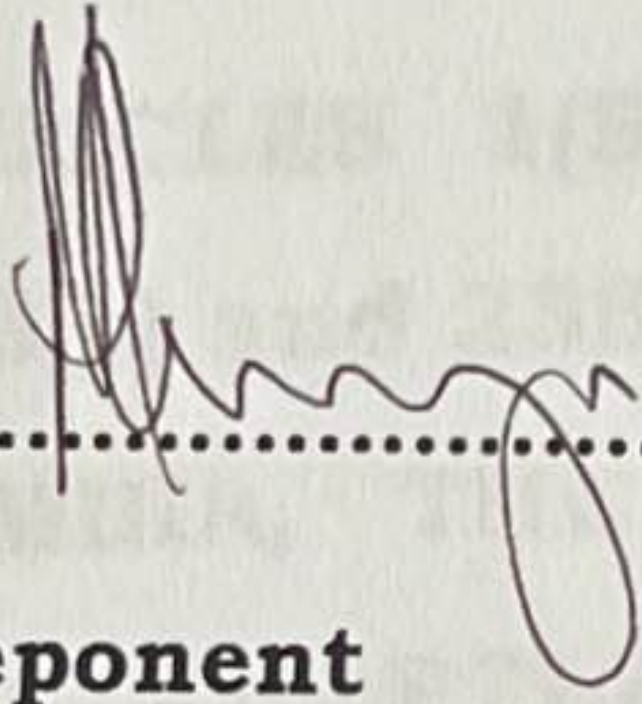
suspected to be proceeds of crime and during the arraignment an application for bail was made and granted. Now shown to me is a copy of the indictment and bail bond collectively marked as ML12

87. That I depose to the contents of this my affidavit believing the same to be true and correct from information and records available to me

SWORN BY THE SAID }

MILINGO LUNGO }.....

This 19th day of April 2022 }


Deponent

Before Me: .....

Commissioner for Oaths



IN THE CONSTITUTIONAL COURT OF ZAMBIA

2022/ CCZ/

HOLDEN AT LUSAKA

(Constitutional Jurisdiction)

IN THE MATTER OF: THE CONSTITUTION OF ZAMBIA, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA

IN THE MATTER OF: ARTICLES 1(5), 128, 173(1)(a)(c)(g), 180(7), 216(c) and 235(b) OF THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1 OF THE LAWS OF ZAMBIA

IN THE MATTER OF: THE STATE PROCEEDINGS ACT, CHAPTER 71, VOLUME 6, OF THE LAWS OF ZAMBIA

IN THE MATTER OF: SECTION 8 OF THE CONSTITUTIONAL COURT ACT, 2016 OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA

BETWEEN:

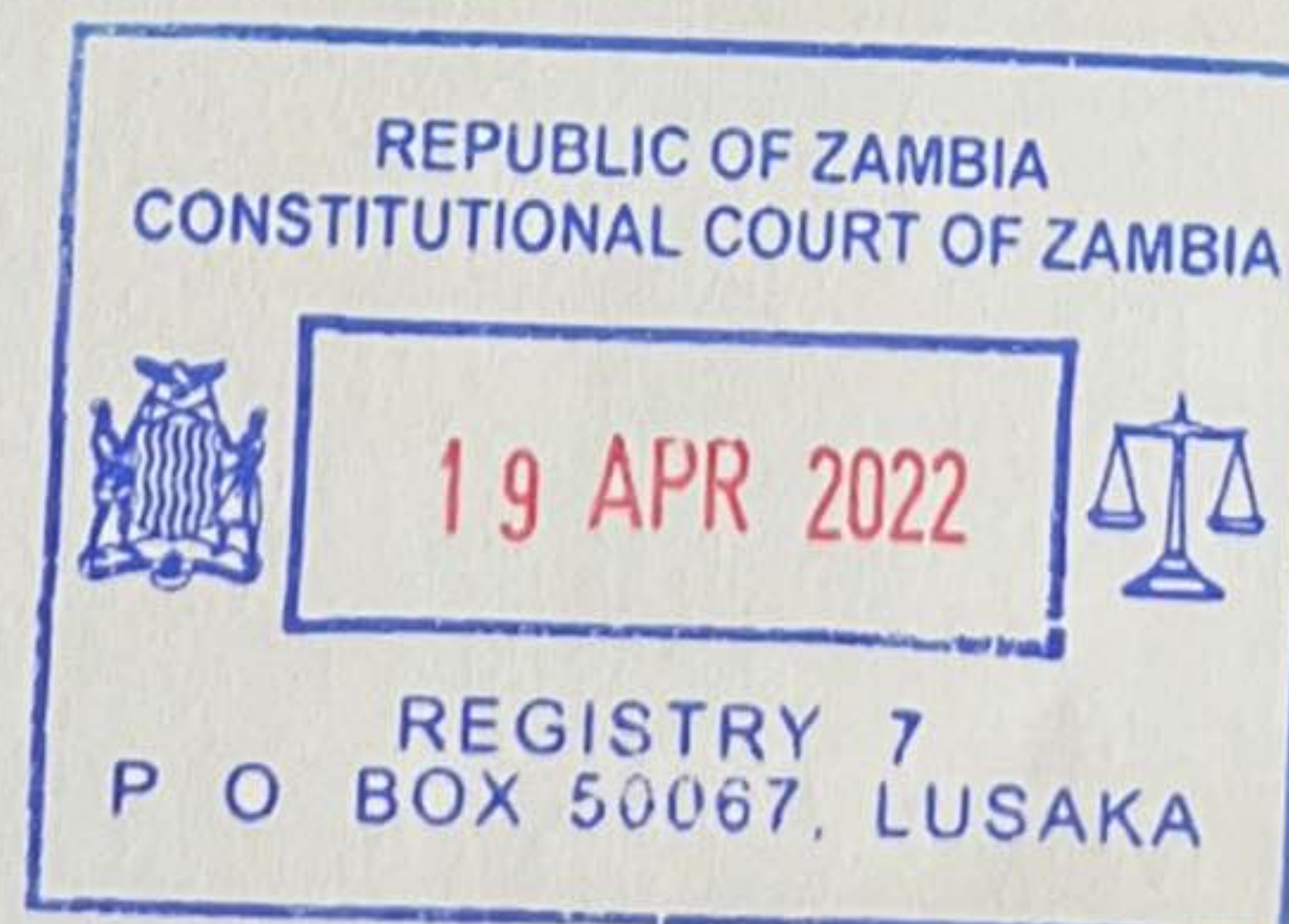
MILINGO LUNGU

AND

ATTORNEY GENERAL

BOYD MUNALULA

THE DRUG ENFORCEMENT COMMISSION



PETITIONER

1st RESPONDENT

2nd RESPONDENT

3rd RESPONDENT

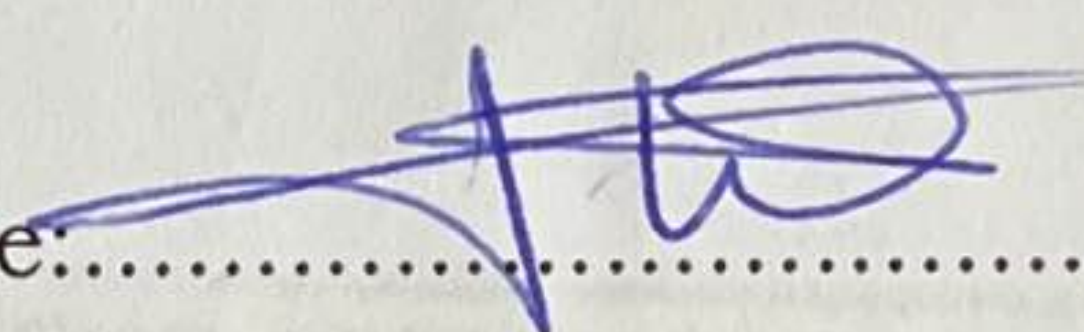
ADMINISTRATOR GENERAL

4TH RESPONDENT

CERTIFICATE OF EXHIBIT

These are the true exhibits referred to in the affidavit of one **MILINGO LUNGU** marked "**ML 1**" to "**ML 12**" produced and shown to me

Dated the 19th day of April 2022

Before Me: 

Commissioner for Oaths



ML 1

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
AT LUSAKA
(Civil Jurisdiction)

2019/HP/ 0761

IN THE MATTER OF KONKOLA COPPER MINES PLC

AND

IN THE MATTER OF THE CORPORATE INSOLVENCY ACT NO.9 OF 2017 OF THE LAWS
OF ZAMBIA

BETWEEN

ZCCM INVESTMENT HOLDINGS PLC

PETITIONER

AND

KONKOLA COPPER MINES PLC

RESPONDENT



EX PARTE ORDER APPOINTING PROVISIONAL LIQUIDATOR

UPON HEARING Counsel for the Petitioners

AND UPON reading the affidavit filed in support herein

IT IS HEREBY ORDERED that **MILINGO LUNGU** of Messrs Lungu Simwanza and Company BE and IS hereby appointed to act as Provisional Liquidator of the Respondent Company until the conclusion of the hearing of this Petition or further order.

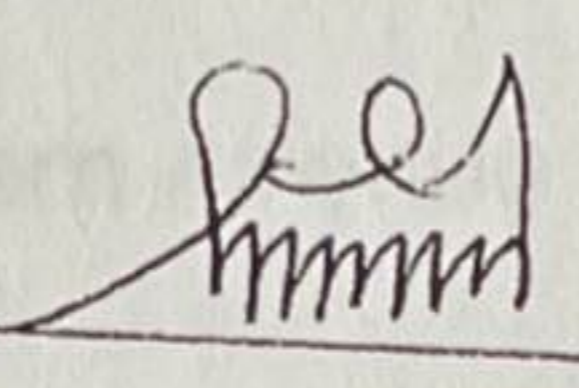
AND IT IS FURTHER ORDERED that the Provisional Liquidator shall have the following powers;

1. Carry on the business of the Respondent Company so far as is necessary for the beneficial winding up.
2. Make any compromises or arrangements with creditors.
3. Make any agreement on all questions in any way relating to or affecting the Company or its assets.
4. Take possession, custody and control all the assets of the Respondent, and;
5. Bring or defend any action or other legal proceedings in the name and or on behalf of the Respondent.
6. Dispose of assets by public tender or the most transparent manner under the circumstances.
7. Sell the real and personal property and things in action of the Respondent by public auction public tender or private contract


8. Execute in the name and on behalf of the Respondent all Deeds, receipts and other documents and for that purpose use where necessary the company seal.
9. Appoint a Legal Practitioner or other agent to undertake any functions which the liquidator is unable to perform personally.

It is further ordered that inter parte hearing shall be on the 20th day of March 2019 at 09:00 O Clock in the fore noon

Dated _____ at LUSAKA this _____ day of _____ 2019.



HONOURABLE HIGH COURT JUDGE

Per:  General Counsel
ZCCM Investment Holdings Plc
Stand 6806, Alick Nkhata Road
P.O Box 30048

LUSAKA
ADVOCATES FOR THE PETITIONERS

All correspondence to be
addressed to the Administrator-General & Official Receiver
Telephone: 0211-250381 / 250384¹
Telegrams: ADMINGEN, LUSAKA
TELE FAX: 0211-250392



ML2

In reply please quote

No.....

REPUBLIC OF ZAMBIA
ADMINISTRATOR-GENERAL
&
OFFICIAL RECEIVER

NEW KENT BUILDING
HAILE SELASSE AVE.
2ND FLOOR
P.O. BOX 37778
LUSAKA

ADGEN/101/1/55

23rd July, 2019

Mr. Milingo Lungu
Provisional Liquidator for Konkola Copper Mines Plc
Konkola Copper Mines Plc
Private Bag KCM (C) 2000, Fern Avenue
CHINGOLA

Dear Sir,

**RE: RENUMERATION AGREEMENT FOR PROVISIONAL LIQUIDATOR FOR
KONKOLA COPPER MINES PLC**

Reference is made to the above subject matter.

Kindly find enclosed herein duly executed agreements for your further action.

We shall await our copy.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Natasha'.

Natasha N. Kalimukwa (Mrs.)

ADMINISTRATOR-GENERAL AND OFFICIAL RECEIVER

Dated the day of..... 2019

WHEREAS

1. By a Petition (hereinafter called the "Petition") dated the 21st day of May 2019, the Petitioner (hereinafter called the "Petitioner") was appointed as the Receiver of the assets and MILINDO ENGINEERING COMPANY (PVT) LTD. (hereinafter referred to as "MILINDO ENGINEERING COMPANY") of a firm of legal practitioners and accountants (hereinafter called the "Professional Liquidator") for the purpose of
2. By an application made in the Petition the Petitioner applied to the Court for an order that it be permitted to exercise the powers conferred upon it by the Court in the Petition and to do so

RENUMERATION AGREEMENT

Relating to Konkola Copper Mines Limited

NOW THIS AGREEMENT IS SET FORTH AS FOLLOWS

THIS AGREEMENT is made the day of Two Thousand and Nineteen BETWEEN THE ADMINISTRATOR GENERAL AND OFFICIAL RECEIVER of the one part and MILINGO LUNGU of Messrs LUNGU SIMWANZA AND COMPANY (A Firm of Legal Practitioners) of Lusaka aforesaid (hereinafter called "the Provisional Liquidator") of the other part.

WHEREAS

1. By a Petition (hereinafter called the "Petition") dated the 21st May 2019 ZCCM-IH plc (hereinafter called the "Petitioner") has requested to place Konkola Copper Mines Plc (hereinafter referred to as KCM) under compulsory liquidation following the issues raised in the petition and on the ground that it is just and equitable to do so
2. By an application made in the matter, the petitioner applied to the Court for the appointment of a Provisional Liquidator pending the determination of the matter or further order.
3. By order dated the 21st May 2019 (hereinafter referred to as the "Order") the Court appointed Mr. Milingo Lungu of Messrs Lungu Simwanza and Company as Provisional Liquidator for the company.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS

1. The Court pursuant to Section 65 of the Corporate Insolvency Act No. 17 of 2019 appointed Mr. Milingo Lungu as Provisional Liquidator of the Respondent Company until the conclusion of the hearing of this Petition or further order with the power to.

- i. Carry on the business of the Respondent Company so far as is necessary for the beneficial winding up.
- ii. Make any compromises or arrangements with creditors.
- iii. Make any agreement on all questions in any way relating to or affecting the Company or its assets.
- iv. Take possession, custody and control of all the assets of the Respondent, and;
- v. Bring or defend any action or other legal proceedings in the name and or on behalf of the Respondent.

2. Pursuant to Section 70(1)(a) as read with Section 116 of the Corporate Insolvency Act the Official Receiver declares that the Provisional Liquidator shall be entitled to remuneration as Liquidator in the performance of his duties from the date of appointment on the following terms;

- a. Remuneration by way of an advance against the commission equivalent to the salary of the Chief Executive Officer of KCM to cover all incidental costs and expenses associated with the initial stages of the Liquidation
- b. A commission of 5% on every realization, sale or other revenue made in the course of performance of his duties.

2. The Provisional Liquidator accepts the appointment hereby made subject to the condition that any matters arising out of or in connection with the Liquidation may be delegated to such consultants, advisors, agents or managers as the Provisional Liquidator in his discretion may deem necessary or expedient.

3. The Provisional Liquidator accepts that all acts deemed to be necessary in carrying out its obligations under the liquidation shall be governed by the law and the Court and shall obtain the written approval and authorisation from the Official Receiver in respect of matters where the Official Receiver or the

Committee of Inspection require to give consent or approval

IN WITNESS whereof the parties hereto have hereunto set their respective hands and seals the day and year first above written.

THE COMMON SEAL OF THE OFFICIAL RECEIVER)
was hereunto affixed)
In the presence of:

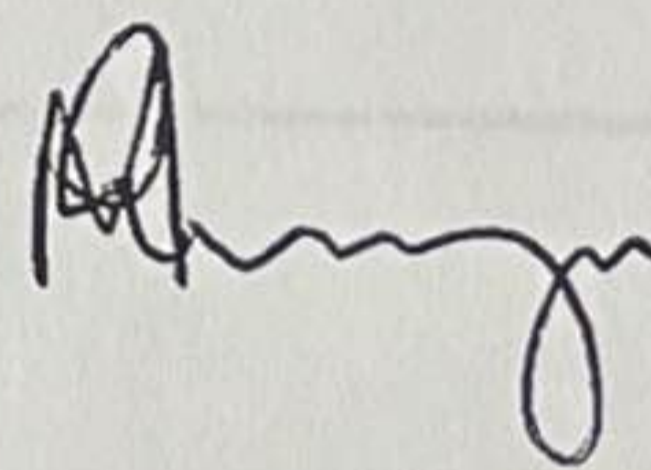
Name: Natasha Nsanta-Kalimukwa

Address: 2nd Floor New Kent Building

Occupation: legal practitioner

CONFIRMATION AGREEMENT
Relating to Konkola Copper Mines Limited

SIGNED SEALED and DELIVERED)
By the said MILINGO LUNGU)
In the presence of:)



WITNESS:

Name: MAXWELL MAIWSA

KONKOLA COPPER MINES PLC

Address: STAND NO. 11/1408 CHANZARA

Occupation: LEGAL COUNSEL

~~AM~~ AI

Dated the day of 2019

and Now as BETWEEN THE ADMINISTRATOR GENERAL AND OFFICIAL RECEIVER of the one part and ABELINGO LINGU of Messrs LINGU SIMVANZA AND COMPANY (A Firm of Legal Practitioners) of Zambia of the other part.

WHEREAS

1. By a Petition (hereinafter called the "Petition") dated the 21st May 2019 the Petitioner (hereinafter called the "Petitioner") has requested in pursuance of the provisions of the Companies Act No. 20 of 2017 that Konkola Copper Mines Plc (hereinafter referred to as "KCM") be placed into compulsory liquidation following the issues raised in the petition and on the ground that it is just and equitable to do so.

RENUMERATION AGREEMENT

Relating to Konkola Copper Mines Limited

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS

1. The Court pursuant to the provisions of the Companies Act No. 20 of 2017 has appointed the Petitioner as Provisional Liquidator of the Konkola Copper Mines Plc and the Petitioner is of the opinion that it is just and equitable to do so.

THIS AGREEMENT is made the day of Two Thousand and Nineteen BETWEEN THE ADMINISTRATOR GENERAL AND OFFICIAL RECEIVER of the one part and MILINGO LUNGU of Messrs LUNGU SIMWANZA AND COMPANY (A Firm of Legal Practitioners) of Lusaka aforesaid (hereinafter called "the Provisional Liquidator") of the other part.

WHEREAS

1. By a Petition (hereinafter called the "Petition") dated the 21st May 2019 ZCCM-IH plc (hereinafter called the "Petitioner") has requested to place Konkola Copper Mines Plc (hereinafter referred to as KCM) under compulsory liquidation following the issues raised in the petition and on the ground that it is just and equitable to do so
2. By an application made in the matter, the petitioner applied to the Court for the appointment of a Provisional Liquidator pending the determination of the matter or further order.
3. By order dated the 21st May 2019 (hereinafter referred to as the "Order") the Court appointed Mr. Milingo Lungu of Messrs Lungu Simwanza and Company as Provisional Liquidator for the company.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS

1. The Court pursuant to Section 65 of the Corporate Insolvency Act No. 17 of 2019 appointed Mr. Milingo Lungu as Provisional Liquidator of the Respondent Company until the conclusion of the hearing of this Petition or further order with the power to.

Committee of Inspection require to give consent or approval

IN WITNESS whereof the parties hereto have hereunto set their respective hands and seals the day and year first above written.

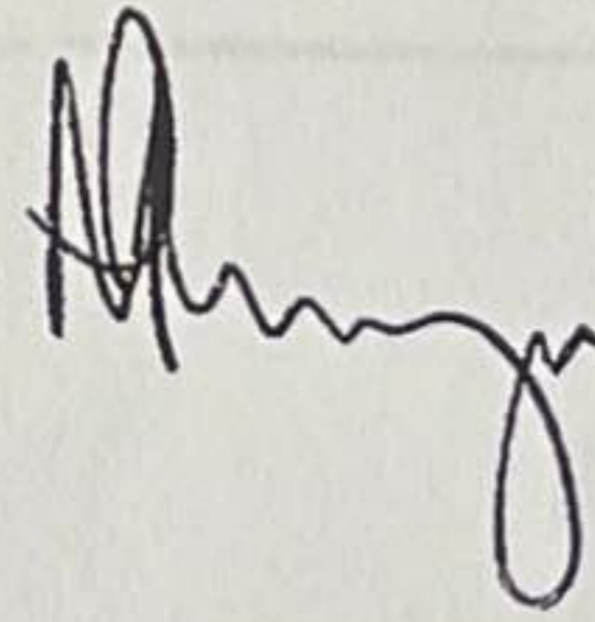
THE COMMON SEAL OF THE OFFICIAL RECEIVER)
was hereunto affixed)
In the presence of:

Name: Natacha Nsanta-Kelimmukwa

Address: 2nd Floor New Kent Building

Occupation: Legal Practitioner

SIGNED SEALED and DELIVERED)
By the said MILINGO LUNGU)
In the presence of:)

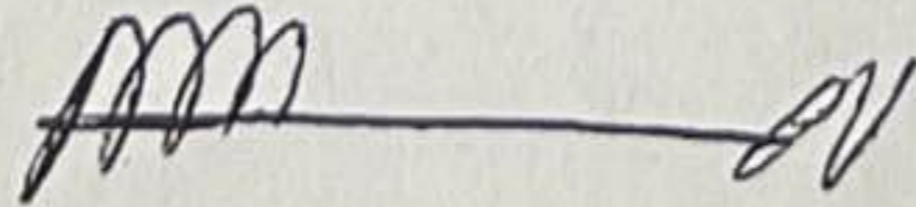


WITNESS:

Name: MAXWELL MAINSA

Address: KONKOM COPPER MINES PLC
STAMP M.114.08. CITIWOLA

Occupation: LEGAL COUNSEL



Dated the day of..... 2019

BEFORE ME, THE ADMINISTRATOR GENERAL AND OFFICIAL LIQUIDATOR OF THE DISTRICT OF BHRINGO LINGU of the Republic of Zambia, and COMPANY (A Firm of Legal Practitioners) of the one part, and the other party called the "Provisional Liquidator" of the other part.

That the said firm of legal practitioners (hereinafter called the "Firm") dated the 21st May 2019 and the said Provisional Liquidator (hereinafter called the "Provisional Liquidator") has requested me to place before the Court a Provisional Order (hereinafter called as "PRO") under which the said firm of legal practitioners following the terms set out in the petition and on the terms set out in the said PRO and to sign the same.

RENUMERATION AGREEMENT
Relating to Konkola Copper Mines Limited

AND THIS AGREEMENT IS MADE AS FOLLOWS:

1. That the said firm of legal practitioners is entitled to remuneration in respect of the services rendered to the said Provisional Liquidator in connection with the winding up of the said company in accordance with Section 64 of the Companies (Winding Up) Act No. 20 of 1997 and the said firm of legal practitioners is entitled to be appointed as Provisional Liquidator of the said company and until the conclusion of the winding up of the said company or the first order made by the court.

THIS AGREEMENT is made the day of Two Thousand and Nineteen BETWEEN THE ADMINISTRATOR GENERAL AND OFFICIAL RECEIVER of the one part and MILINGO LUNGU of Messrs LUNGU SIMWANZA AND COMPANY (A Firm of Legal Practitioners) of Lusaka aforesaid (hereinafter called "the Provisional Liquidator") of the other part.

WHEREAS

1. By a Petition (hereinafter called the "Petition") dated the 21st May 2019 ZCCM-IH plc (hereinafter called the "Petitioner") has requested to place Konkola Copper Mines Plc (hereinafter referred to as KCM) under compulsory liquidation following the issues raised in the petition and on the ground that it is just and equitable to do so
2. By an application made in the matter, the petitioner applied to the Court for the appointment of a Provisional Liquidator pending the determination of the matter or further order.
3. By order dated the 21st May 2019 (hereinafter referred to as the "Order") the Court appointed Mr. Milingo Lungu of Messrs Lungu Simwanza and Company as Provisional Liquidator for the company.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS

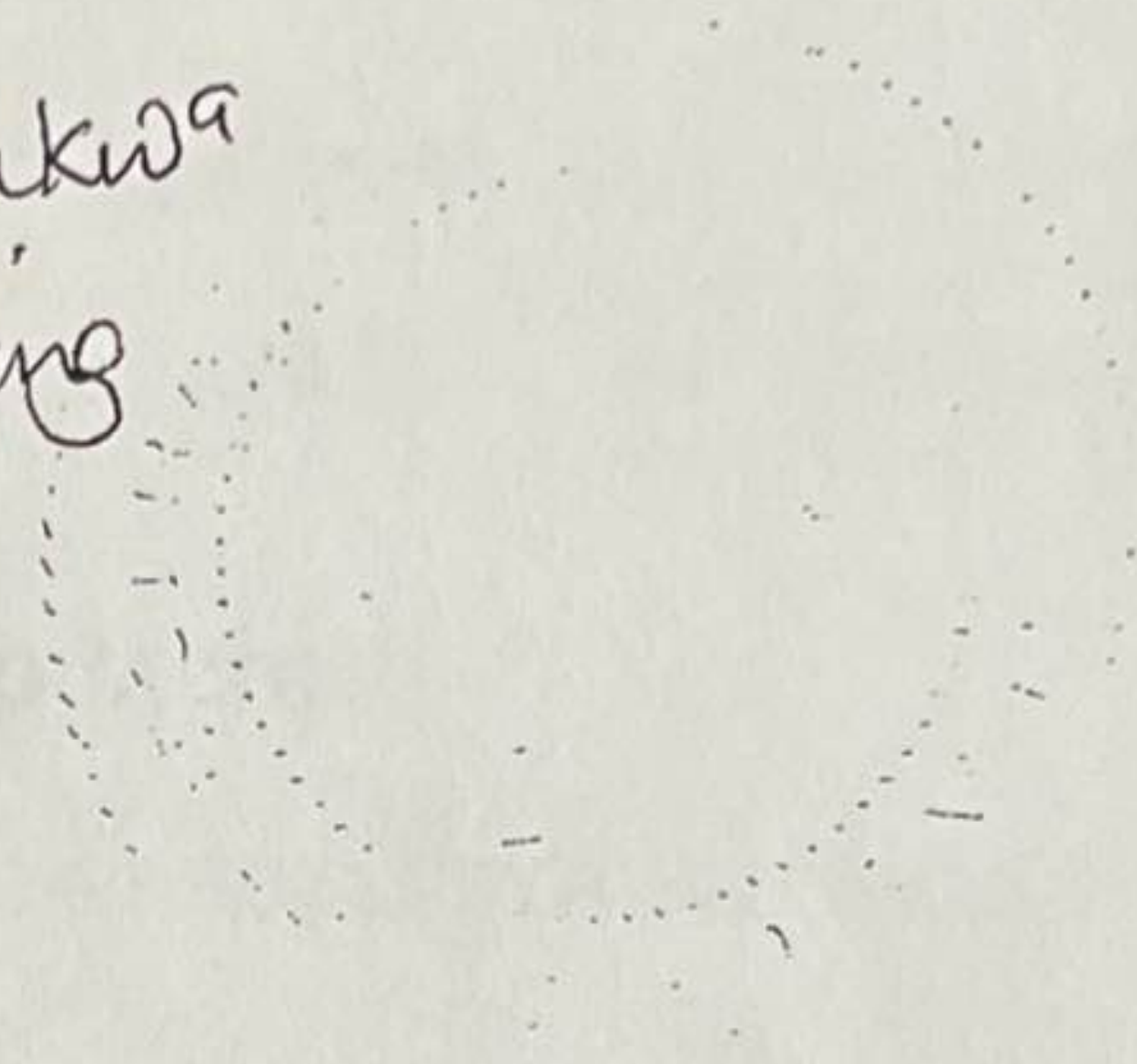
1. The Court pursuant to Section 65 of the Corporate Insolvency Act No. 17 of 2019 appointed Mr. Milingo Lungu as Provisional Liquidator of the Respondent Company until the conclusion of the hearing of this Petition or further order with the power to.

Committee of Inspection require to give consent or approval

IN WITNESS whereof the parties hereto have hereunto set their respective hands and seals the day and year first above written.

THE COMMON SEAL OF THE OFFICIAL RECEIVER)
was hereunto affixed)
In the presence of:

Name: Natasha Nsanda-Kalimukwa
Address: 2nd floor New Kent Building
Occupation: Legal Practitioner



SIGNED SEALED and DELIVERED)
By the said MILINGO LUNGU)
In the presence of:)

WITNESS:

Name: MAXWELL MAINSA
Address: KONKOLA COPPER MINES
STAND M.1.14.08 CHINSOLA
Occupation: LEGAL COUNSEL

ML 3

REPUBLIC OF ZAMBIA

CPC FORM 33

Case _____ of 2022

In the Subordinate Court of the.....1st.....Class for
the..... LusakaDistrict, holden at Lusaka
.....Before:On
the..... Day of.....February, 2022 at 09:00hours

THE PEOPLE versus: **MILINGO LUNGU**
Residential Address: **PLOT 22763 MULUNGUSHI ROAD ROMA,
LUSAKA**
Occupation: **LEGAL PRACTITIONER**
Age: **43**
Sex: **MALE**
District: **CHIPATA**
Village: **MUCHENGA**
Chief: **MPEZENI**

Accused was served on.....with a Summons
dated.....
Accused was arrested onunder Warrant
dated.....
Accused was arrested without Warrant on the 2nd Day of December, 2021
Accused was released on Bail or on his Own Recognizance on
the.....day of.....20.....

CHARGE

COUNT 1

STATEMENT OF OFFENCE

Theft contrary to Section 272 of the Penal Code Act, Chapter 87 of the Laws of Zambia.

PARTICULARS OF OFFENCE: MILINGO LUNGU, on the 26th day of July, 2021, at Lusaka, in the Lusaka District of the Lusaka Province of the Republic of Zambia, being the Provisional Liquidator for Konkola Copper Mines (KCM) PLC, did steal **K 5,000,000.00**, property of the said KCM PLC.

COUNT 2

STATEMENT OF OFFENCE

Theft contrary to Section 272 of the Penal Code Act, Chapter 87 of the Laws of Zambia.

PARTICULARS OF OFFENCE: MILINGO LUNGU, on the 27th day of July, 2021, at Lusaka, in the Lusaka District of the Lusaka Province of the Republic of Zambia, being the Provisional Liquidator for Konkola Copper Mines (KCM) PLC, did steal **K 5,000,000.00**, property of the said KCM.

COUNT 3

STATEMENT OF OFFENCE

Theft contrary to Section 272 of the Penal Code Act, Chapter 87 of the Laws of Zambia.

PARTICULARS OF OFFENCE: MILINGO LUNGU on the 30th day of July, 2021, at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia, being the Provisional Liquidator for Konkola Copper Mines (KCM) PLC, did steal **K5,000,000.00**, property of the said KCM PLC.

COUNT 4

STATEMENT OF OFFENCE

Theft contrary to Section 272 of the Penal Code Act, Chapter 87 of the Laws of Zambia.

PARTICULARS OF OFFENCE: MILINGO LUNGU, on the 6th day of August, 2021, at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia, being the Provisional Liquidator for Konkola Copper Mines (KCM) PLC, did steal **K 2,000,000.00**, property of the said KCM PLC.

COUNT 5

STATEMENT OF OFFENCE

Theft contrary to Sections 272 of the Penal Code Chapter 87 of the Laws of Zambia.

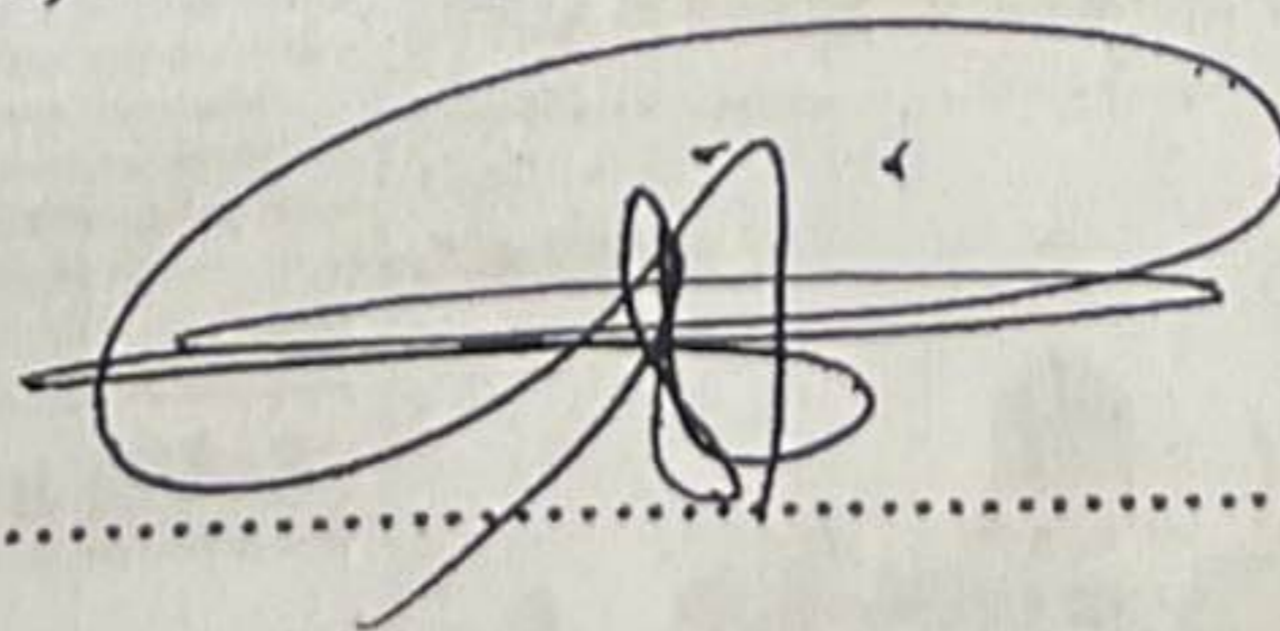
PARTICULARS OF OFFENCE: MILINGO LUNGU, on the 10th day of August, 2021, at Lusaka, in the Lusaka District of the Lusaka Province of the Republic of Zambia, being the Provisional Liquidator for Konkola Copper Mines PLC, did steal **K250,000.00**, property of the said KCM PLC.

COUNT 6

STATEMENT OF OFFENCE

Money Laundering contrary to Section 7 of the Prohibition and Prevention of Money Laundering Act Number 14 of 2001, as amended by Act No. 44 of 2010 of the Laws of Zambia.

PARTICULARS OF OFFENCE: MILINGO LUNGU, between the 25th day of July, 2021, and the 10th day of August, 2021, at Lusaka, in the Lusaka District of the Lusaka Province, of the Republic of Zambia, did possess **K17,250,000.00** cash, knowing the same to be proceeds of crime.



.....
Magistrate/Public Prosecutor

07:13

96%

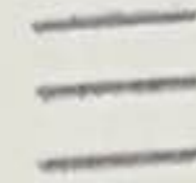
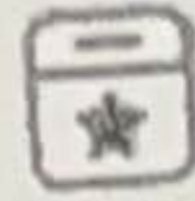
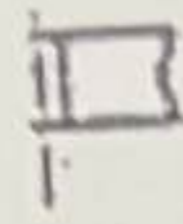
Data Mode

Buy Data

Go to Free

facebook

MLA



IND

1 hour ago

https://diggers.news/e-paper/2021/08/30/news-diggers-epaper-edition-1026-monday-august-30-2021/

News Diggers!

ear to the ground

Monday August 30, 2021



FIC SEIZES MILINGO'S ACCOUNTS



I'll soon handover to new PF president, says Lungu

By Annetta Ndlovu
Lungu says he will hand over to the new PF president when he is elected

Chirwa wonders why people are panicking, moving cash out of the country

By Annetta Ndlovu
Finance Minister Chirwa has expressed concern over reports that citizens are withdrawing large amounts of cash from banks and moving it out of the country.

HH fires service chiefs

By Annetta Ndlovu
President Mwanza has fired the heads of the National Police, the National Fire Service, and the National Security Service.

No one should go to



"MLS"

26th August, 2021

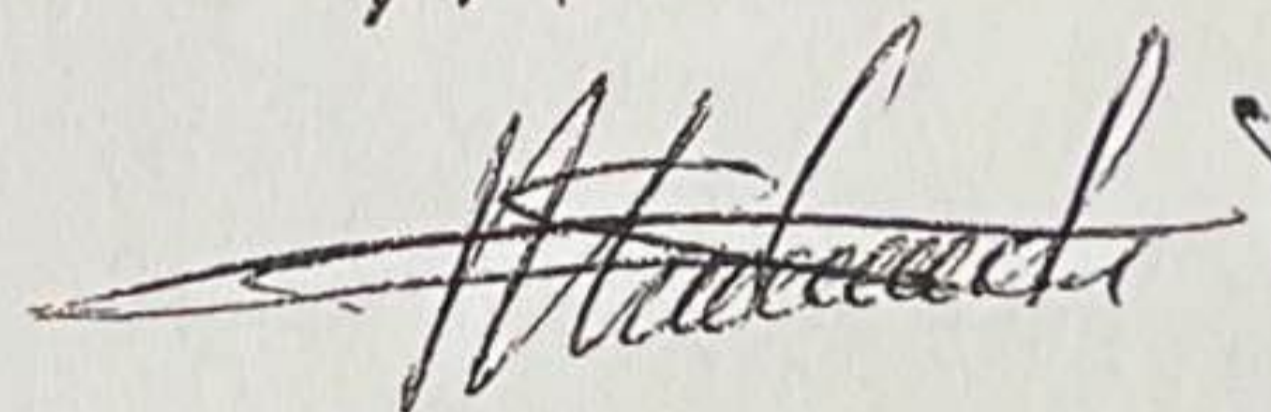
The Director General

Financial Intelligence Centre

Bank of Zambia House

Cairo Road

Lusaka

Milimo Mubunda


Dear Sir/Madam:

**RE: FREEZING OF ACCOUNTS- Mr. MILINGO LUNGU AND LUNGU
SIMWANZA AND COMPANY**

The above captioned matter refers.

We act for Mr. Milingo Lungu hence note our interest.

Our client advises that his account as well as the firm's clients account have been restricted by yourselves on the premise that the said accounts contain suspicious transactions

Our client wishes to clarify the funds contained therein

It must be noted firstly that our client was appointed provisional liquidator by an order of Court on the 19th May, 2019.

That as a result of his appointment and pursuant to section 70 of the Corporate insolvency Act, 2017 he was and is entitled to remuneration by virtue of his position.

Section 70 provides for the provisional liquidator.

It provides:

- “(1) Subject to this Act, a liquidator, may receive such salary or remuneration by way of commission or otherwise as is determined—*
- (a) by agreement between the liquidator and the committee of inspection, if any;*
 - (b) by an extraordinary resolution passed at a meeting of creditors convened by the liquidator, by a notice to each creditor to which was attached a statement of all receipts and expenditure by the liquidator and the amount of remuneration sought failing an agreement or where there is no committee of inspection; or*
 - (c) by the Court, failing a determination under paragraph (a) or (b).*
- (2) Where the salary or remuneration of a liquidator is determined, as specified in subsection (1) (a), the Court may, on the application of one or more members whose shareholdings represent, in total, not less than five percent of the issued capital of the company, or who, in the case of a company having no share capital, constitute not less than five percent of the members, confirm or vary the determination.*
- (3) Where the salary or remuneration of a liquidator is determined, as specified in subsection (1) (b), the Court may, on the application of the liquidator or one or more members, as provided in subsection (2), confirm or vary the determination.*
- (4) Subject to an order of the Court, the Official Receiver, when liquidator or provisional liquidator, may receive such remuneration by way of commission or otherwise as may be prescribed.*
- (5) Despite the generality of this section, the rate payable to the liquidator shall not exceed such amount as may be prescribed.*
- (6) A liquidator who knowingly collects remuneration in excess of the prescribed amount is personally liable to reimburse the amount of the excess remuneration so collected and commits an offence”*

From the above provision, the Provisional Liquidator did engage the relevant parties to proceed and set his remuneration and the documents are attached. The remuneration was initially set at 5% of revenue however the provisional liquidator applied to raise it from 5% to 10% and the justification for this raise was that in addition to managing and administering KCM, the Liquidator was

required to invite and adjudicate on bids for the sale of KCM, act as a transaction adviser on the sale of KCM and restructure KCM into two subsidiaries.

The proposal was agreed to and reduced into an agreement by way of addendum to the original agreement. Same is attached.

The provisional Liquidator ranks in priority in terms of payments and section 127(1) (a) of the Corporate insolvency Act of 2017 is clear as regards this point. Despite ranking in priority, the provisional liquidator refrained from claiming his fees because of the frail financial position of the company.

To date, the company has paid about USD2.5 billion to other creditors.

On the 18th August, 2021, the provisional liquidator presented invoices to KCM from date of appointment to end of July and the amount due stood at USD59 million.

On the same date, USD30 million was moved from the KCM account into the clients account for Lungu Simwanza and Company and this was into three different accounts, Stanbic ,FNB and ABSA which accounts received USD 10 million each as part payment of the Liquidators fees.

Our client then moved USD 3 million from Stanbic, FNB and the USD4 million which was to be moved from ABSA is what was stopped by yourselves.

On the 26th August, 2021, our client received notification from ABSA and Stanbic bank to the effect that his accounts have been restricted pursuant to section 10(3) of the Financial, intelligence centre Act.

The payment of USD30 million is supported by invoices and it is only a part payment of the USD 59 million invoiced.

The remainder of the money is still remaining in the clients accounts and until it is appropriated, it still belongs to a third party which is Konkola Copper Mines PLC.

All documents in support of the above explanation are attached hereto for your ease of reference.

- i. Carry on the business of the Respondent Company so far as is necessary for the beneficial winding up.
- ii. Make any compromises or arrangements with creditors.
- iii. Make any agreement on all questions in any way relating to or affecting the Company or its assets.
- iv. Take possession, custody and control of all the assets of the Respondent, and;
- v. Bring or defend any action or other legal proceedings in the name and or on behalf of the Respondent.

2. Pursuant to Section 70(1)(a) as read with Section 116 of the Corporate Insolvency Act the Official Receiver declares that the Provisional Liquidator shall be entitled to remuneration as Liquidator in the performance of his duties from the date of appointment on the following terms;

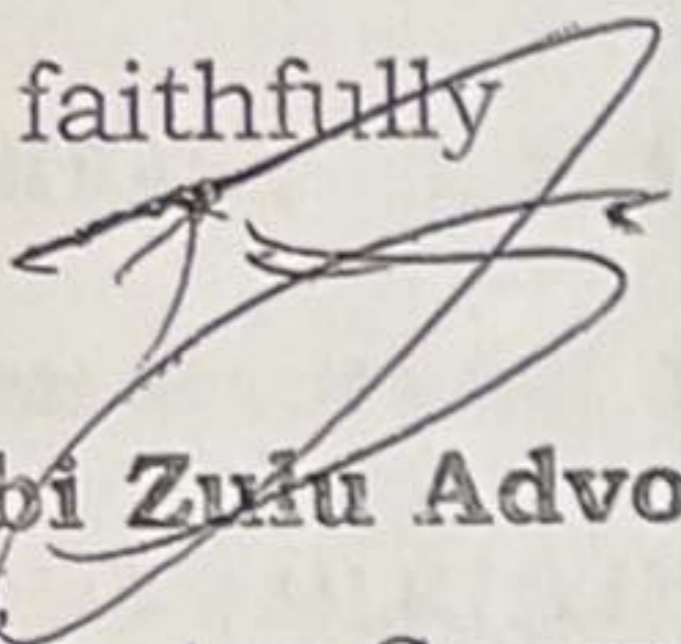
- a. Remuneration by way of an advance against the commission equivalent to the salary of the Chief Executive Officer of KCM to cover all incidental costs and expenses associated with the initial stages of the Liquidation
- b. A commission of 5% on every realization, sale or other revenue made in the course of performance of his duties.

2. The Provisional Liquidator accepts the appointment hereby made subject to the condition that any matters arising out of or in connection with the Liquidation may be delegated to such consultants, advisors, agents or managers as the Provisional Liquidator in his discretion may deem necessary or expedient.

3. The Provisional Liquidator accepts that all acts deemed to be necessary in carrying out its obligations under the liquidation shall be governed by the law and the Court and shall obtain the written approval and authorisation from the Official Receiver in respect of matters where the Official Receiver or the

There is there no illegal or suspicious transaction as alleged by your notice and a careful look at the said documents will show that what is stated is the truth. By copy of this letter we therefore request that your freezing order be removed from the account so as to allow our client access.

Yours faithfully



Makebi Zulu Advocates

- Cc: Director General D.E.C
- Cc: Director General Office of the President
- Cc: Inspector General of Police
- D4

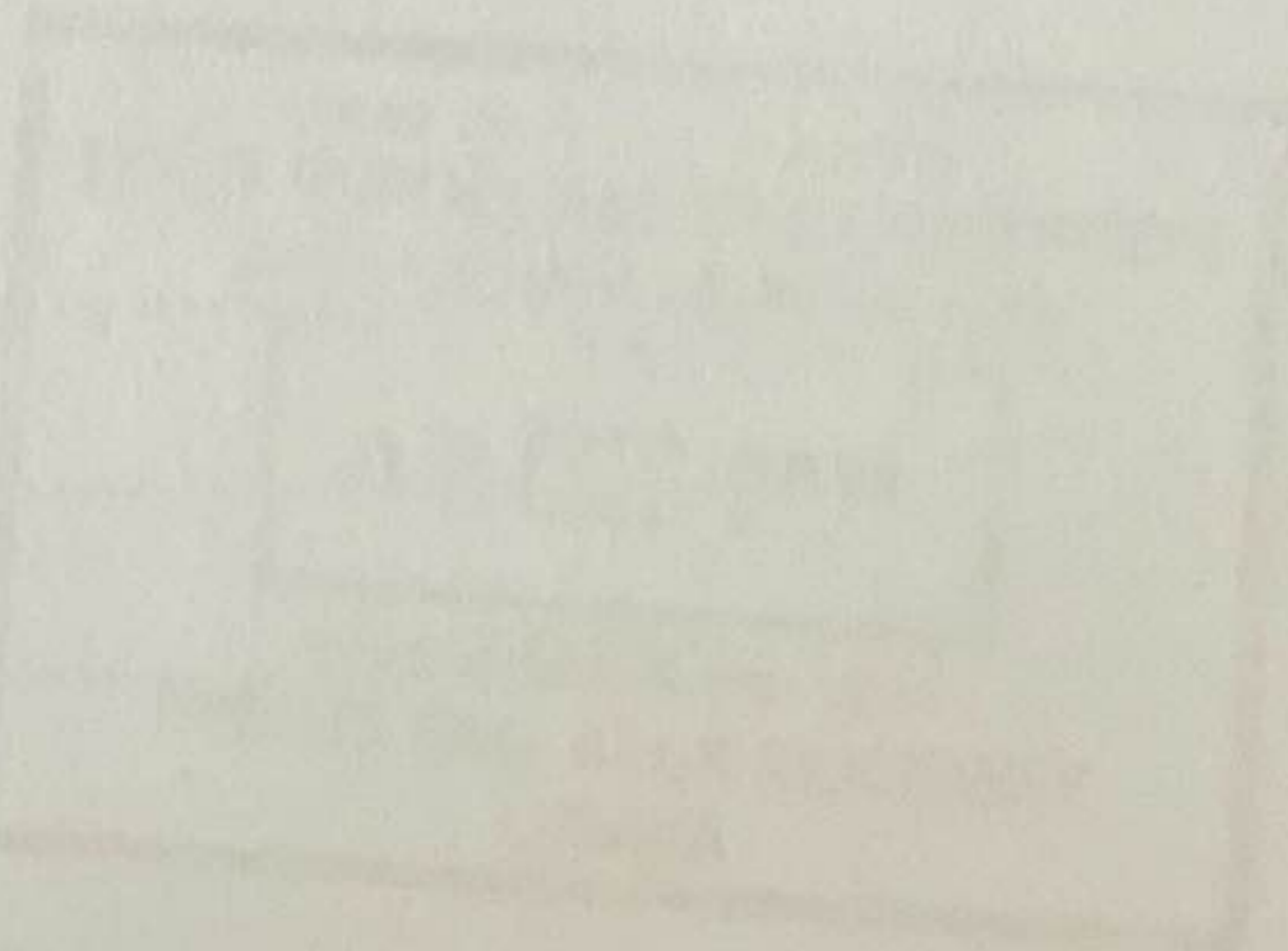
Principal Party

Surety

same Address as

DECEMBER 2021

Office in Charge



MLG

Original to be retained by Police
Duplicate to be supplied to Principal Party

ZP Form 82
Stocked by QM Stores

ZAMBIA POLICE

POLICE BOND OR RECOGNIZANCE

WHEREAS.....MILINGO LUNGU.....

Has been arrested this...2nd.day of ...December, 2021.....

At...DEC- AMLIU (LUSAKA).....for (offences)...Theft C/S 272 AND 278 of the Laws of Zambia.....

The undersigned principal party to recognizance hereby binds himself to perform the following obligations:

To Appear ... at the Subordinate.....Court ON A DATE TO BE ADVISED BY NPA

.....on the...day

at.....hours in the.....noon, and on any other or subsequent day when required by the Court to answer the said charge and to be dealt with according to the law.

And the said principal party together with the undersigned sureties hereby acknowledges himself/herself severally acknowledge themselves bound to forfeit to the Government of the Republic of Zambia the sum

(s) Following, viz: the said principal party the sum of...K50, 000.00.....each

In case the said principal party fails to perform the above obligation or any part thereof.*

Principal Party

Surety...*Adnan M. Ngoma* 0966752990

Surety...*Malama M. Patrick* 0977348802

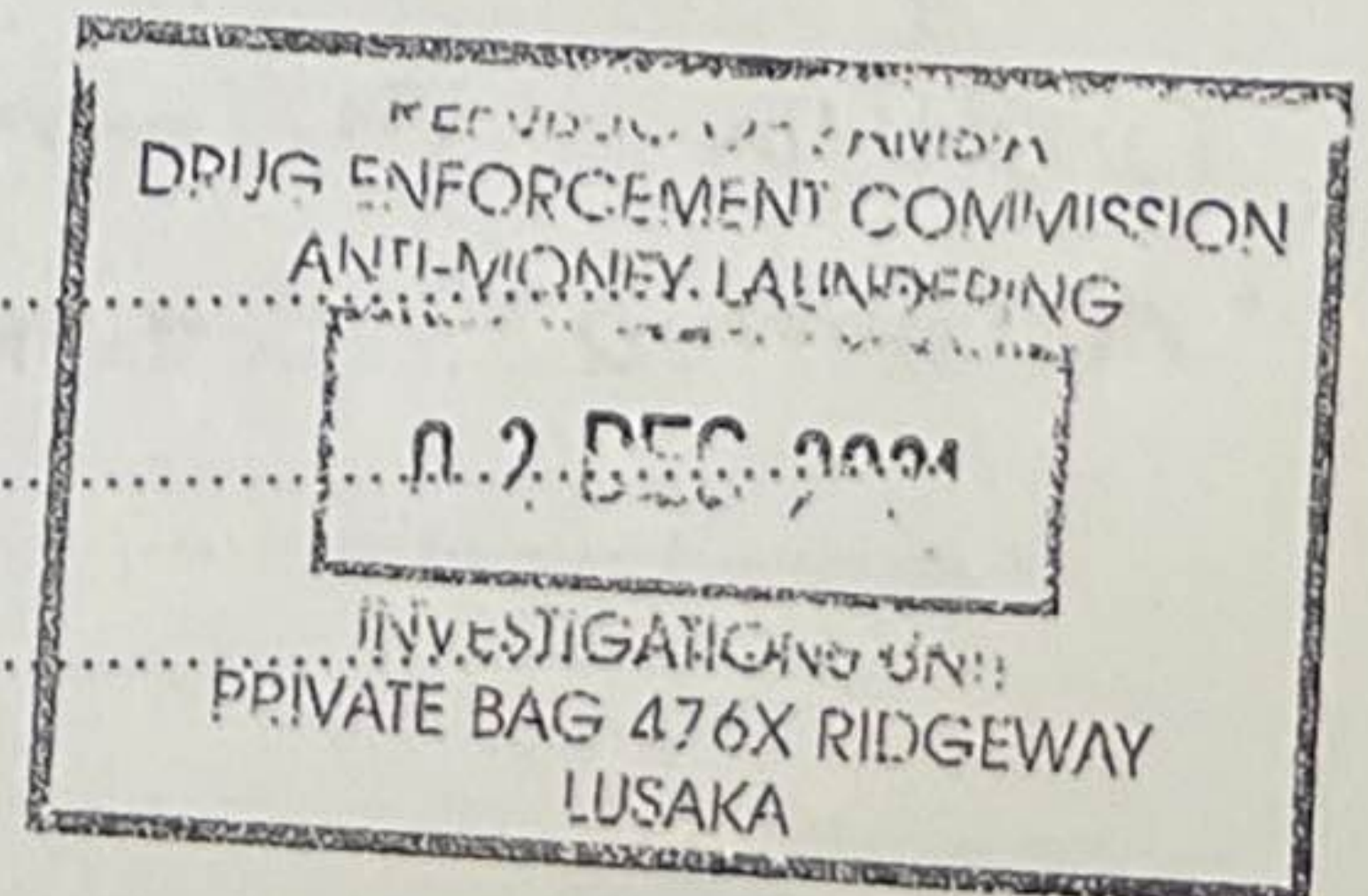
Taken before me at...*DRUG ENFORCEMENT COMMISSION - AMLIU*.....

The...*2nd*.....day of...*DECEMBER 2021*.....

Mimba
Officer in Charge

Details of additional conditions.....

- Delete words in italics if no sureties required
If sureties taken, delete words 'hereby acknowledges himself only.'



ML6*

Original to be retained by Police
Duplicate to be supplied to Principal Party

ZP Form 82
Stocked by QM Stores

ZAMBIA POLICE

POLICE BOND OR RECOGNIZANCE

WHEREAS MILINDO JINGU
Has been arrested this 28th day of SEPTEMBER 2021
At DEC/AMLI for (offences) THEFT OF \$280 OF THE
PEARL CODE CAPST AND MONEY LAUNDERING OF \$7 OF
ACT 14 OF 2001

The undersigned principal party to recognizance hereby binds himself to perform the following obligations:

To appear before the PKM Court at (Place) LUSAKA
MAGISTRATE COMPLEX on the 12 day of OCTOBER 2021
at 0900 hours in the AFTER noon, and on any other or subsequent day
when required by the Court to answer the said charge and to be dealt with according to the law.

And the said principal party together with the undersigned sureties hereby acknowledges himself/herself
severally acknowledge themselves bound to forfeit to the Government of the Republic of Zambia the sum
(s) following, viz: the said principal party the sum of K50,000 AND K25,000 each surety

In case the said principal party fails to perform the above obligation or any part thereof.*

Adrian M. Nkomo
63/16 Twi Falls
Soweto Lusaka
Conwell Fungai Musanga
17 Firey Street Road, Fiziwa
Lusaka

Principal Party [Signature]
Surety [Signature] NRC 608623/11/1
Surety [Signature] NRC 314441/6/11

Taken before me at DEC - AMLI LUSAKA
The.....day of.....

[Signature]
Officer in Charge

Details of additional conditions NOT TO LEAVE ZAMBIA WITHOUT
INFORMING THE DRUG ENFORCEMENT COMMISSION

- Delete words in italics if no sureties required
If sureties taken, delete words 'hereby acknowledges himself only.'

Classification: Company Confidential



^a ML ~~6/4~~ 7 ¹¹

16th December, 2021.

Mr. Milingo Lungu,
Plot 22763 Mulungushi Road,
Lusaka.

Dear Mr. Lungu,


RE: RESTRICTION OF TRANSACTIONS RELATING TO ACCOUNT NUMBERS 0587239200271 AND
587239200377

We refer to the above and advise that transactions on the above cited bank accounts have
been restricted by an order of the Financial Intelligence Centre (FIC).

Kindly contact FIC for further details regarding the restriction.

Yours faithfully,

ZAMBIA NATIONAL COMMERCIAL BANK PLC



Daniel Mumba
PRIVATE BANKER

Cc : The Director General
Financial Intelligence Centre



REPUBLIC OF ZAMBIA
OFFICIAL RECEIVER

In reply please quote

No. _____

ML 8

9th March, 2022

NEW KENT BUILDING
HAILE SELASSE AVE.
2nd FLOOR
P.O. BOX 37778
LUSAKA

PERSONAL AND CONFIDENTIAL

Mr. Milingo Lungu
Provisional Liquidator
Konkola Copper Mines (KCM)
CHINGOLA

Dear Sir,

**RE: SUSPENSION AS PROVISIONAL LIQUIDATOR OF KONKOLA
COPPER MINES (KCM); YOURSELF**

I wish to inform you that ZCCM Investments Holdings Plc has lodged a complaint against you pursuant to section 69(1)(b) of the Corporate Insolvency Act No. 9 of 2017 on the following grounds:

1. Contract mismanagement;
2. Financial mismanagement; and
3. Asset mismanagement.

In exercise of the oversight powers vested in me over liquidators under Section 69 of the Corporate Insolvency Act, 2017 ("the Act"), I have instituted an inquiry into the matter and taken the following immediate actions that I consider appropriate:

- (a) I suspend you from exercising the powers and functions of your office as Provisional Liquidator pending the outcome of the inquiry;
- (b) I restrain you from accessing the company premises and property whatsoever and wheresoever;
- (c) I restrain you from accessing and dealing with all KCM bank accounts;
- (d) I direct that you surrender all books of accounts and vouchers and other financial documents relating to KCM in your custody to my office with immediate effect; and
- (e) I have further appointed PricewaterhouseCoopers Limited as forensic auditors into the affairs of KCM to inquire into the issue as to whether you have been faithfully performing your functions as provisional liquidator and to inquire into the complaints before me.

pursuant to Section 69(2) and (3) of the Act, I will require you to answer any inquiry in relation to your functions as provisional liquidator of KCM at an appropriate time and depending on the outcome of the inquiry, I reserve the right to do the following:


- (a) recommend to the investigative and prosecutorial agencies of the State for the prosecution of the complaints and other findings suggesting that you committed an offence under this Act; and
- (b) recommend for your disqualification.

By copy of this letter, the Registrar of the Patents and Companies Registration Agency (PACRA) and the Chief Executive Officer of ZCCM-IH and other members of the Company relating to the winding-up proceedings are hereby informed accordingly.

I further call upon the Inspector-General of Police to protect the Company assets and records by enforcing my directives above.

For ease of reference, find enclosed herewith the complaint lodged by ZCCM Investments Holdings Plc.

Yours faithfully


Matasia Nsanta-Kalimukwa (Mrs)
OFFICIAL RECEIVER

C.C. The Registrar
Patents and Companies Registration Agency
LUSAKA

C.C. The Chief Executive Officer
ZCCM-IH
LUSAKA

C.C. The Director
Vedanta Resources PLC
LUSAKA

C.C. Inspector-General of Police
LUSAKA

(1)

"ML 8"

11th March 2022

The Administrator General & Official Receiver

New Kent Building

Haile Selassie Avenue

2nd Floor

P. O. Box 37778

LUSAKA



Dear Madam

**RE: SUSPENSION AS PROVISIONAL LIQUIDATOR OF KONKOLA COPPER
MINES PLC- MILINGO LUNGU**

Your letter of the 9th instant served on our client on the 10th instant is at hand, and we have instructions to respond as we now do.

We wish to draw your attention to Cause No. 2019/HP/0761 and the Order of Court therein dated the 21st of May 2019.

We have carefully considered your letter and the provision cited therein. It is clear to us that you have laboured under a serious misapprehension of the law and acted outside the authority reposed in your office. We say so because nowhere in **Section 69** of the **Corporate Insolvency Act No. 9 of 2017**, or any other law are you given the power to suspend a liquidator appointed by the Court. To do so would amount to giving yourself judicial power to alter an order of the court, which power you do not possess.

The attended provision you referred to gives you the authority to carry out an inquiry. The said inquiry and the outcomes thereof, if at all credible, certainly require you to make a substantive application before the court that appointed the liquidator for an appropriate order.

The order, and the powers, duties, functions, and authority therein, as granted to our client on the 21st of May 2019 cannot be altered, suspended, set aside or in any way be tempered with



LUSENGA MULONGOTI ADVOCATES
Legal Practitioners & Commissioners for Oaths

63 Independence Avenue, Prospect Hill,
P.O Box 50154, Lusaka, Zambia
Mobile: +260 962 080 140 | +260 977 720 609
Email: info@mulongoti.com

ML 9'

Our Ref: LMA/0501/22

16th March 2022.

Mrs. L. Shawa-Siyuni, SC
Director of Public Prosecutions
National Prosecutions Authority
Plot No. BLX 29B Independence Avenue
LUSAKA

'Without Prejudice'

Dear Madam,

RE: THE PEOPLE V. MILINGO LUNGU: VARIOUS CASES BEFORE THE LUSAKA
SUBORDINATE COURT

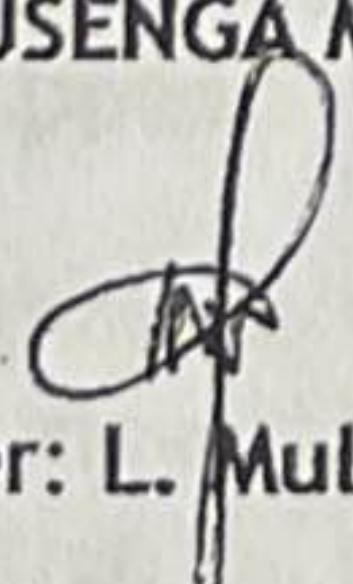
We act for Mr. Milingo Lungu in the on-going negotiations for an ex-curia settlement with the State in relation to his current position as Provisional Liquidator of Konkola Copper Mines Plc and therefore kindly note our interest.

The said negotiations have reached an advanced stage and the only sticking issue preventing signing of a settlement agreement is the criminal charges our client is facing before the Lusaka Subordinate Court. In this regard we write to seek your indulgence if you could consider withdrawing the said charges and halting any investigations against our client in order to give the State latitude to reach a settlement with our client in their dispute over his continued stay in the office of Provisional Liquidator of Konkola Copper Mines Plc.

It is our considered view that if you granted us this request you will be helping the State to resolve the thorny issues surrounding the liquidation of Konkola Copper Mines Plc and you will be acting in public interest in exercise of the powers vested in you by Article 180(7) of the Constitution of Zambia.

We humbly submit.

Yours faithfully,
LUSENGA MULONGOTI ADVOCATES


Per: L. Mulongoti

Cc: The Attorney General
LUSAKA

The Official Receiver
LUSAKA



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ML10

Our Ref: LMA/0501/22

5th January 2022.

The Attorney General
Ministry of Justice
Independence Avenue, Ridgeway
P.O Box 50106
LUSAKA



"Without Prejudice & Confidential"

Attention: Mr. Marshal Muchende, SC
Solicitor General

RE: IN THE MATTER OF ZCCM INVESTMENT HOLDING PLC V. KONKOLA COPPER MINES PLC, VEDANTA RESOURCES HOLDINGS LIMITED: PROPOSED RELEASE OF PROVISIONAL LIQUIDATOR

The above captioned matter refers.

We have been retained by Mr. Milingo Lungu, Provisional Liquidator of Konkola Copper Mines Plc, to act for him in this matter, therefore kindly note our interest.

We refer to the meeting between ourselves as advocates for Mr. Lungu, Mr. Lungu himself and the learned Solicitor General Mr. Marshal Muchende, SC at the Solicitor General's Chambers on 4th January 2022, where the issue of the release of our client as Provisional Liquidator and his replacement by the Official Receiver was mooted.

In this regard our instruction is to advise as we did in our discussion with the Solicitor General that this matter was subject of "Summons for Directions" or application by Vedanta Limited before the High Court where the Honourable Justice A. M. Banda-Bobo in her ruling of 7th May 2021 declined to entertain the application on grounds that she was bereft of jurisdiction owing to a stay of proceedings granted by the Court of Appeal.

Be that as it may, and on a strictly without prejudice basis, our Client is amenable to the idea of tendering his resignation and release as Provisional Liquidator pursuant to Section 67 (7) as read with Section 78 (b) of the Corporate Insolvency Act No. 9 of 2017, and furnish a report on the state of affairs of the property in liquidation on the assurance that the Government of the Republic of Zambia and ZCCM-IH Plc undertakes to do the following:

- (i) To honour all the issued invoices against, among other funds, the amounts held as a lien by our client in his Client's account at his law firm in line with the remuneration agreement subsisting between the parties;
- (ii) That the state shall grant indemnity to our client from both civil and criminal claims or proceedings whether commenced or in future, and for the avoidance of doubt, to include the dropping of all charges brought against our client by the State.

We therefore recommend a seamless and less acrimonious release of our client in the interest of the nation at large and the company assets in particular and draw your attention to *Section 67 (5) of the Corporate Insolvency Act No. 9 of 2017* to the effect that the "Official Receiver shall be the liquidator during any vacancy in the office of liquidator."

We remain available to meet to further discuss our proposal if acceptable by the State and ZCCM-IH Plc.

Yours faithfully,
LUSENGA MULONGOTI ADVOCATES



Per: **L. Mulongoti**



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16th March 2022.

"ML 10"

Our Ref: LMA/0501/22

Mrs. L. Shawa-Siyuni, SC
Director of Public Prosecutions
National Prosecutions Authority
Plot No. BLX 29B Independence Avenue
LUSAKA

'Without Prejudice'

Dear Madam,

RE: THE PEOPLE V. MILINGO LUNGU: VARIOUS CASES BEFORE THE LUSAKA SUBORDINATE COURT

We act for Mr. Milingo Lungu in the on-going negotiations for an ex-curia settlement with the State in relation to his current position as Provisional Liquidator of Konkola Copper Mines Plc and therefore kindly note our interest.

The said negotiations have reached an advanced stage and the only sticking issue preventing signing of a settlement agreement is the criminal charges our client is facing before the Lusaka Subordinate Court. In this regard we write to seek your indulgence if you could consider withdrawing the said charges and halting any investigations against our client in order to give the State latitude to reach a settlement with our client in their dispute over his continued stay in the office of Provisional Liquidator of Konkola Copper Mines Plc.

It is our considered view that if you granted us this request you will be helping the State to resolve the thorny issues surrounding the liquidation of Konkola Copper Mines Plc and you will be acting in public interest in exercise of the powers vested in you by Article 180(7) of the Constitution of Zambia.

We humbly submit.

Yours faithfully,
LUSENGA MULONGOTI ADVOCATES

Per: L. Mulongoti

Cc: The Attorney General
LUSAKA

The Official Receiver
LUSAKA

ML 11

Our Ref: LMA/0501/22

17th March 2022.

Mrs. Natasha N. Kalimukwa
Official Receiver
2nd Floor New Kent Building
Haile Sellassie Avenue, Longacres
LUSAKA

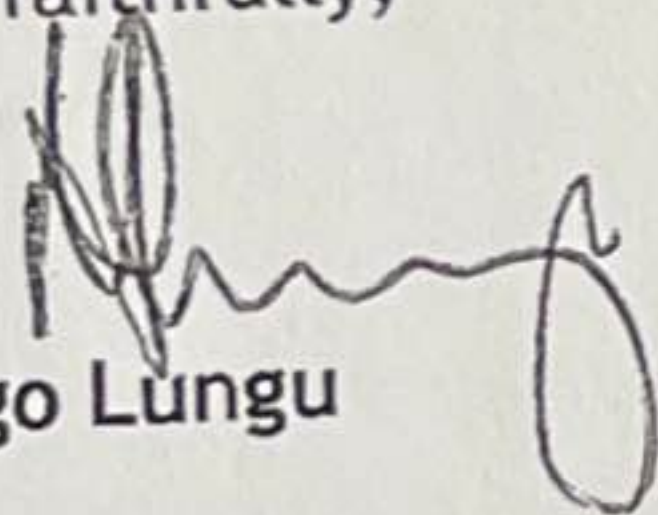
Dear Madam,

RE: RESIGNATION AS PROVISIONAL LIQUIDATOR OF KONKOLA COPPER MINES PLC

Reference is made to the above captioned subject.

This serves to inform you that I have with immediate effect resigned as Provisional Liquidator of Konkola Copper Mines Plc pursuant to Section 67(7) of the Corporate Insolvency Act No. 9 of 2017.

Yours faithfully,


Milingo Lungu

Cc: The Registrar
Patents and Companies Registration Agency
LUSAKA

Dated the 15th day of March 2022

"MLI"

NATASHA NSANTA-KALIMUKWA (MRS)
(In her capacity as Official Receiver)

AND

MILINGO LUNGU
(In his capacity as Provisional Liquidator for Konkola Copper Mines Plc)

CONSENT SETTLEMENT AGREEMENT

- NOW THEREFORE THIS CONSENT SETTLEMENT AGREEMENT IS MADE AS FOLLOWS:
1. That the Provisional Liquidator, Milingo Lungu, shall resign as Provisional Liquidator for Konkola Copper Mines Plc, with immediate effect mutually in writing;
 2. That Milingo Lungu shall, on resignation handover to the Official Receiver, pursuant to section 67 of the Corporate Insolvency Act, No. 9 of 2017;
 3. Upon execution of this agreement the provisional liquidator will immediately facilitate the transfer and control of all NCM accounts and any other liquidation accounts held in any and all banks;
 4. That Milingo Lungu shall render an account and statutory reports to the Official Receiver or any successor on the affairs of the Provisional Liquidation including the head of the liquidation fees;
 5. That the Official Receiver or any successor shall continue the inquiry commenced under section 69 of the Corporate Insolvency Act, No. 9 of 2017 and the forensic auditors shall instead audit and reconcile the liquidation fees with cooperation of Mr. Milingo Lungu.

THIS CONSENT SETTLEMENT AGREEMENT is made the^{15th} day of
.....^{March}..... 2022 BETWEEN NATASHA NSANTA-KALIMUKWA (MRS) (In
her capacity as Official Receiver) of the one part and MILINGO LUNGU (in his capacity
as Provisional Liquidator for Konkola Copper Mines Plc) of the other part.

WHEREAS:

NATASHA NSANTA-KALIMUKWA (Mrs) is an Official Receiver appointed as official
receiver under the Bankruptcy Act of the Laws of Zambia.

AND WHEREAS:

MILINGO LUNGU is Provisional Liquidator for Konkola Copper Mines Plc pursuant to an
Order of the Court dated 21st May, 2019.

AND WHEREAS:

In the spirit and interest of fostering and reaching an ex curia settlement, NATASHA
NSANTA-KALIMUKWA (Mrs) (In her capacity as Official Receiver) and MILINGO LUNGU
(in his capacity as Provisional Liquidator for Konkola Copper Mines Plc) have mutually
agreed upon the Terms of Settlement of the dispute in the manner provided
hereunder.

NOW THEREFORE THIS CONSENT AGREEMENT WITNESSETH AS FOLLOWS:

1. That the Provisional Liquidator, Milingo Lungu, shall resign as Provisional
Liquidator for Konkola Copper Mines Plc. with immediate effect publicly in
writing;
2. That Milingo Lungu shall on resignation handover to the Official Receiver,
pursuant to section 67 of the Corporate Insolvency Act, No. 9 of 2017;
3. Upon execution of this agreement the provisional liquidator will immediately
facilitate the transfer and control of all KCM accounts and any other liquidation
accounts held in any and all banks.
4. That Milingo Lungu shall render an account and statutory reports to the Official
Receiver or any successor on the affairs of the Provisional Liquidation including
the issue of the liquidation fees.
5. That the Official Receiver or any successor shall discontinue the inquiry
commenced under Section 69 of the Corporate Insolvency Act, No. 9 of 2017
and the forensic auditors shall instead audit and reconcile the liquidation fees
with cooperation of Mr. Milingo Lungu.

IN WITNESS whereof the hands and seals of the parties have been set the day and year first before written.

SIGNED by the said NATASHA NSANTA-KALIMUKWA (MRS)]
in her capacity as Official Receiver]
in the presence of:

Natasha

Witness]

Name: MILINGO K. FRANK
Address: HOUSE NO 10 GINSENG CLOSE, SACAMA
Occupation: PRINCIPLE LEGAL OFFICER.

AND

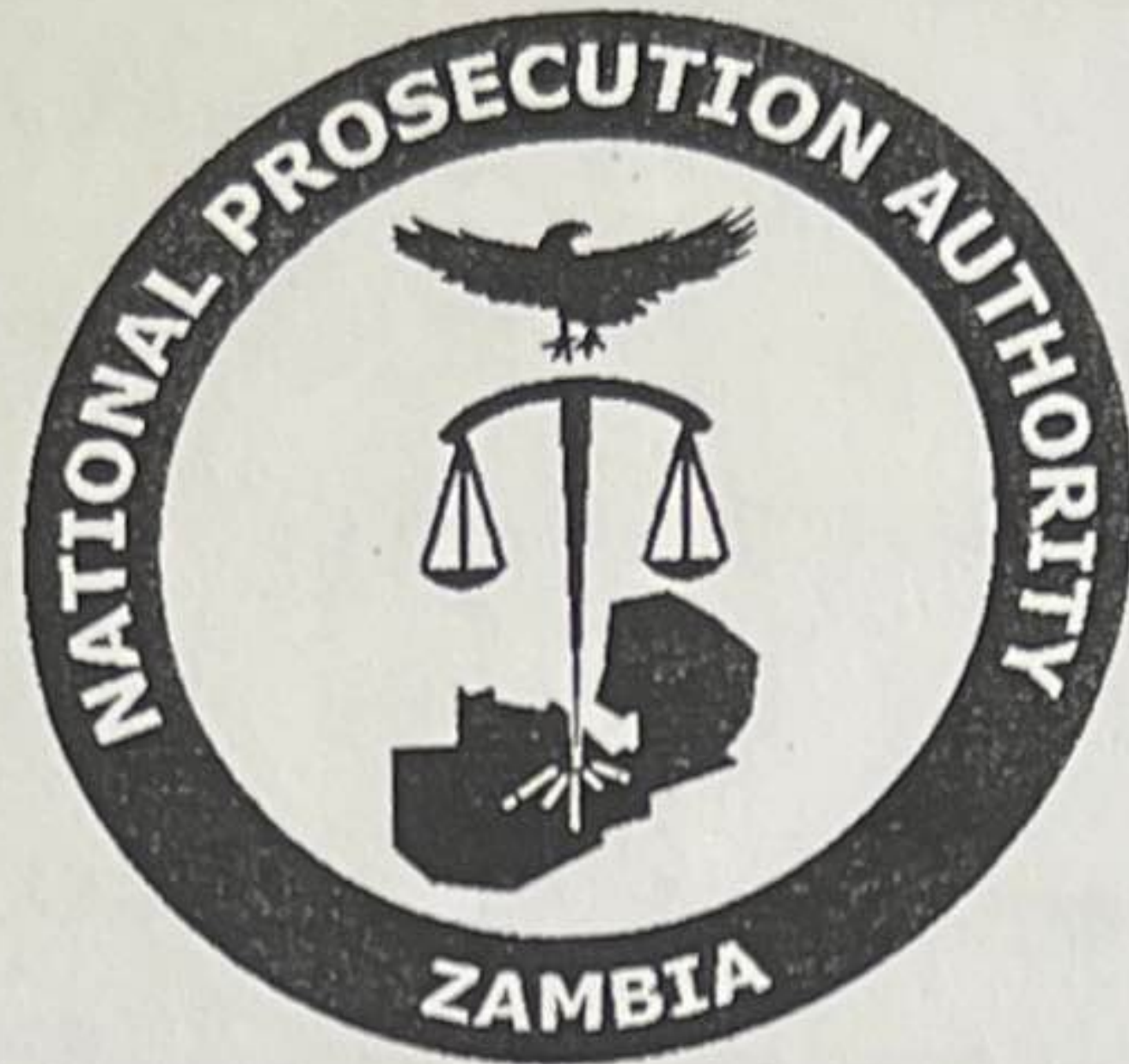
SIGNED by the said MILINGO LUNGU]
in his capacity as Provisional Liquidator]
in the presence of:

Milingo Lungu

Witness]

Name: WESHA MULONKOTI
Address: 63 INTERFERENCE AVENUE, WSAICA
Occupation: LAWYER

"ML 12"



IMMUNITY AGREEMENT

This Agreement between the National Prosecution Authority as duly represented by the **Director of Public Prosecutions** (the DPP herein) and **Milingo Lungu** made this.....22nd.....day of March.....2022 at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia constitutes the State's grant of immunity from prosecution to Milingo Lungu.

WHEREAS by Ex Parte Order of the High Court dated 21st May, 2019, as contained in Annexure **ML1** herein, Milingo Lungu was appointed Provisional Liquidator of Konkola Copper Mines Public Limited Company (KCM).

AND WHEREAS in discharging his duties as Provisional Liquidator for KCM Milingo Lungu allegedly engaged in various criminal activities.

AND WHEREAS the said alleged criminal activities have been and continue to be subject of investigation by the Anti-Money Laundering Investigation Unit of the Drug Enforcement Commission (DEC).

AND WHEREAS Milingo Lungu has since been indicted, appeared in court, taken plea and that two separate trials have commenced on the Indictments in Annexure **ML2** and **ML3** attached hereto.

AND WHEREAS it has become desirable to protect the interest of the Government of the Republic of Zambia, the general public and third parties in KCM as a going concern.

AND WHEREAS the DPP undertakes not to continue prosecuting Milingo Lungu for the matters already in court as contained in Annexure ML2 and ML3 or to start any fresh prosecution for any other past conduct on Milingo Lungu's part in connection with his appointment as provisional liquidator for KCM and subject of investigation by DEC.

UPON CONSIDERATION of all material facts herein affecting the cases Milingo Lungu is facing and taking into account public interest, the larger interest of the State and the interest of justice to all Parties concerned the DPP grants immunity to Milingo Lungu from present or future prosecution based on the facts herein pertaining to all actions taken by him in his capacity as Provisional Liquidator of KCM.

AND this Agreement is not an admission of criminal culpability on the part of Milingo Lungu.

I, Milingo Lungu, acknowledge that I have received a copy of this Agreement, have read it, where necessary I have had it explained to me in whole or in part, and I understand it. There have been no promises or representations made to me that are not disclosed in this agreement. I have been fully advised of my rights by counsel of my own choice. I am aware of the legal consequence for those who would knowingly provide false, misleading, or incomplete information under these circumstances. Finally, I acknowledge that I fully understand my rights and I am entering into this agreement voluntarily.

Dated at Lusaka this 22nd day of March 2022

Name FULATA LILLIAN SITAWA-SIYUNYI SC

Signature [Handwritten Signature]

Director of Public Prosecutions

Name MARGARET HAKASEMKE

Signature [Handwritten Signature]

(Witness)

Milingo Lungu

Name MILINGO LUNGU

Signature [Handwritten Signature]

Counsel for Milingo Lungu

Name MOSES CHITAMBALA

Signature [Handwritten Signature]

ADMINISTRATOR GENERAL

4TH RESPONDENT

AFFIDAVIT VERIFYING FACTS

Drawn by:.....

Messrs Central Chambers

Suit 5, Fisrt Floor, Lex House

Tito Road, off Addis Ababa Dtiev Roundabout

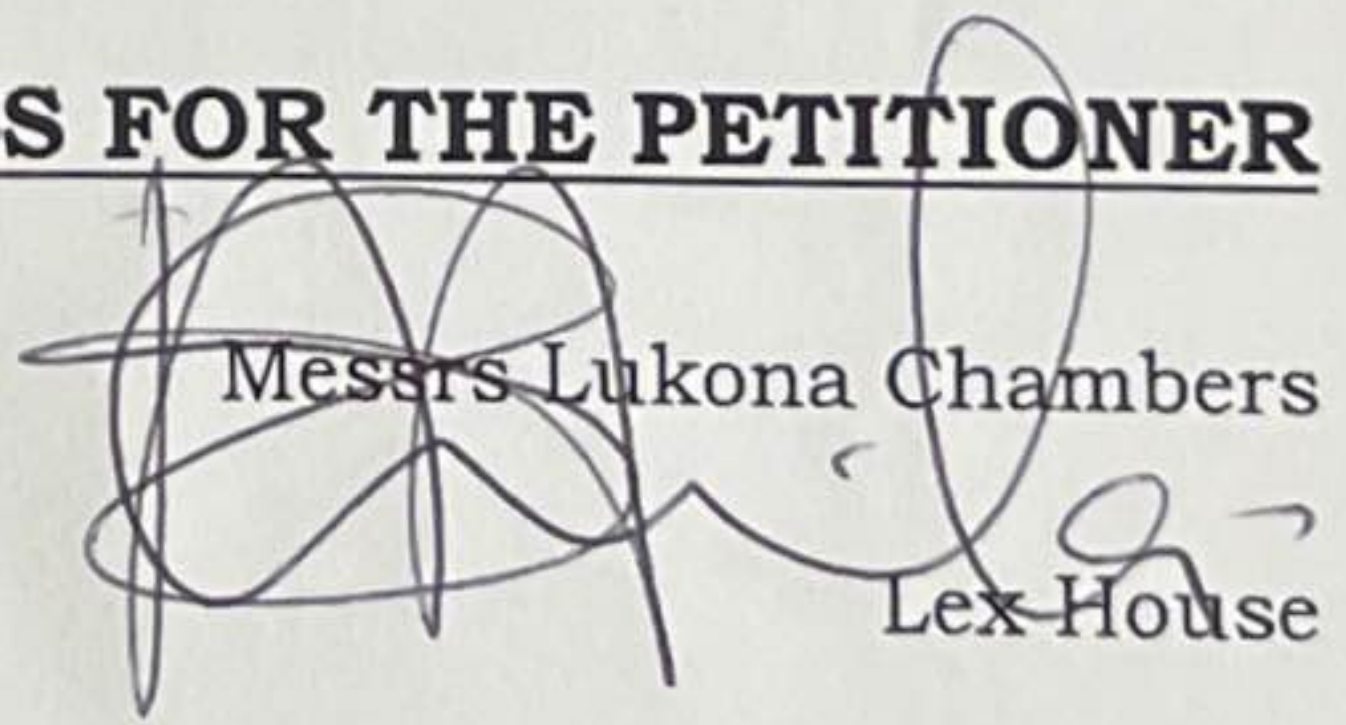
Rhodespark

P.O Box 50468

centralchamberslusaka@gmil.com

Lusaka

ADVOCATES FOR THE PETITIONER

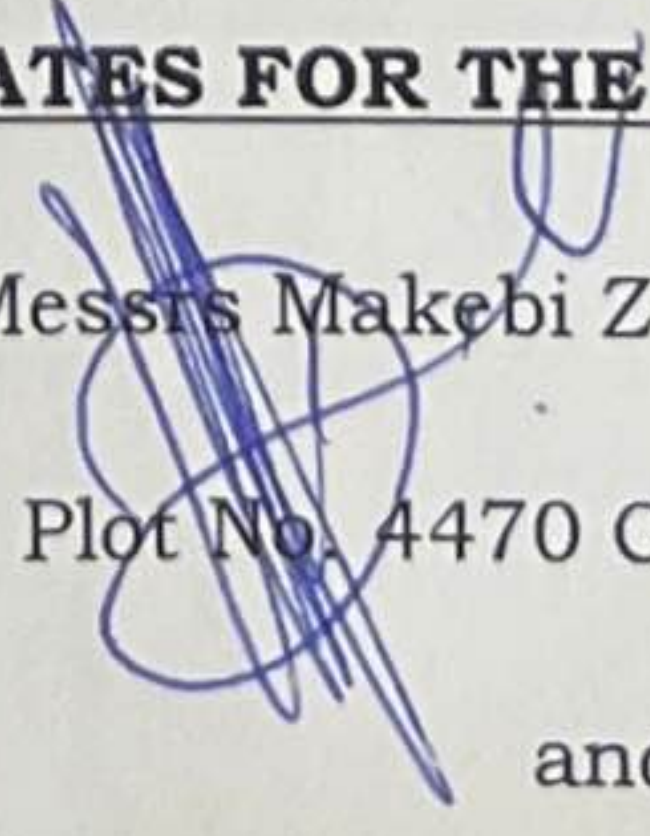

Messrs Lukona Chambers

Lex House

Addis Ababa Drive Roundabout

Lusaka

ADVOCATES FOR THE PETITIONER


Messrs Makebi Zulu Advocates

Plot No. 4470 Cnr of Zambezi

and Mugoti Road

Roma

Lusaka

ADVOCATES FOR THE PETITIONER