
PRIVILEGED LEGAL MEMORANDUM

1. We have been approached by Cash Paymaster Services (Pty) Ltd (“**Consultant**”) to advise whether any of the judgments handed down by the Constitutional Court under case numbers CCT48/13 and CCT48/17 include an order to the effect that Consultant is required to repay profits made pursuant to the contracts concluded with the South African Social Security Agency (“**SASSA**”) in February 2012, as extended by the addendum concluded on 31 March 2017 (“**the SASSA Contract**”).

CCT48/13

2. CCT48/13 involved Allpay Consolidated Investment Holdings (Pty) Ltd and a number of its subsidiaries (as applicants), the CEO of SASSA (as first respondent), SASSA (as second respondent), Consultant (as third respondent) and a host of unsuccessful bidders (as fourth to eighteenth respondents). Corruption Watch and the Centre for Child Law joined the proceedings as *amicus curiae*.
3. Three judgments were handed down by the Constitutional Court during the course of the matter on 29 November 2013 (referred to as *Allpay I*), 17 April 2014 (referred to as *Allpay II*) and 25 November 2015 (referred to as *Allpay III*). Copies of the judgments are attached hereto for ease of reference.

CCT48/17

4. CCT48/17 involved the Black Sash Trust (as applicant), Freedom Under Law NPC (as intervening party), the Minister of Social Development (as first respondent), the CEO of SASSA (as second respondent), SASSA (as third respondent), the Minister of Finance (as fourth Respondent), National Treasury (as fifth respondent), Consultant (as sixth respondent) and the Information Regulator (as seventh respondent). Corruption Watch and the South African Post Office SOC Limited joined these proceedings as *amicus curiae*.

DIRECTORS: Rikesh Sewgoolam; Johannes Engelbrecht; Tiaan Jonker (Chairman); Arilia du Plessis; Bouwer van Niekerk; Jacques Marais (Managing Director); Rachelle Freed; Ravika Sukdeo

SENIOR ASSOCIATES: Schalk Pienaar; Peto Milton

ASSOCIATES: Kris Harmse; Megan Rosseau; Loni Supkaran; Marnelize Olivier

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A member of



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QSE Codes gazetted on
6 May 2015

5. Judgment in this matter was handed down on 17 March 2017. We also attach hereto a copy thereof.

MANDATE

6. The purpose of the approach is to establish, as a matter of fact, whether the Constitutional Court has ordered Consultant to repay profits made pursuant to the SASSA Contract. We were not requested to provide an opinion on the likelihood of such an order being made, the meaning or intent of *obiter* remarks contained in any of the judgments or the purpose or intent of orders made for financial disclosure by Consultant in due course.

CONCLUSION

7. Having studied all of the judgments, we are satisfied that that none of them contain an order that Consultant repay profits derived from the SASSA Contract.

SMIT SEWGOOLAM INC.

per: O C JONKER