



CHAMBERS OF THE DEPUTY CHIEF JUSTICE OF SOUTH AFRICA
CONSTITUTIONAL COURT

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07 May 2021

**To: Zondi JA
Dambuza JA
Mojapelo J
Victor J**

Dear JCC Members

**REFERRAL OF SHADOW WORLD INVESTIGATIONS' AND OPEN SECRETS'
COMPLAINT AGAINST JUDGES W L SERITI AND H M T MUSI**

1. Two organizations called Shadow World Investigations and Open Secrets lodged a complaint against Judge W L Seriti, formerly a Judge of the Supreme Court of Appeal and Judge H M T Musi, formerly Judge President of the Free State Division of the High Court, a copy of which is attached.
2. I have considered Shadow World Investigations and Open Secrets' complaint against Judge Seriti and Judge Musi. In accordance with section 16(1) of the Judicial Service Commission Act (Act 9 of 1994) (JSC Act) I am satisfied that, in the event of Shadow World Investigations and Open Secrets' complaint being established, it is likely to lead to a finding by the Judicial Service Commission that Judge Seriti and Judge Musi are guilty of gross misconduct as envisaged in section 14 (4) of the JSC Act. In terms of section 16(1)(a) of the JSC Act I am obliged to, and, do hereby, refer this complaint to the Judicial Conduct Committee (Committee) in order for the Committee to "consider

whether it should recommend to the Judicial Service Commission that the complaint should be investigated and reported on by a Tribunal”.

3. I wish to point out that, in being satisfied as referred to in the preceding paragraph and in deciding to refer the complaint to the Committee, I took into account only the complainants’ version. Judges Seriti and Musi are yet to file a response. In any event on my reading of the JSC Act, at this stage only the complainants’ versions are required to be considered. The respondents are only required to furnish their responses after I have made the decision to refer the complaint to the Committee and their responses will be considered by the Committee at its meeting at a later stage.
4. In terms of section 16(2) of the JSC Act I hereby determine the date, time and venue of the meeting of the Committee at which the Committee will consider whether to make a recommendation for the complaint to be investigated by a Tribunal as follows:

Date: 12 June 2021

Time: 10h00


Venue: 2nd Floor Judges’ Boardroom, Constitutional Court
1 Hospital Road
Braamfontein.

5. I wish to draw your attention to the provisions of section 16(3), (4), (5) and (6) of the JSC Act. In particular, I point out that section 16(4) is to the effect that, at a meeting of the Committee contemplated in section 16(2), the Committee is required to “consider whether the complaint, if established, will *prima facie* indicate incapacity, gross incompetence or gross misconduct by the respondents”.
6. Section 16(4) provides in effect that, if the Committee concludes at its meeting that the complaint, if established, would *prima facie* indicate incapacity, gross incompetence or gross misconduct by the respondents, it may:

- a) refer the complaint to the Chairperson for an inquiry referred to in section 17(2);
or

b) recommend to the Judicial Service Commission that the complaint be investigated and reported on by a Tribunal.

7. The complainants and the respondents have been informed of their right to make representations for consideration by the Committee and that, if they intend to submit representations, they must do so on or before Friday, 21 May 2021. They have also been informed that, with the leave of the Chairperson, they may address the Committee.


Zondo DCJ
Acting Chairperson of the Judicial Conduct Committee