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**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**



Case number: 52883/2017

Date:

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: YES/NO
(2) OF INTEREST TO OTHERS JUDGES: YES/NO
(3) REVISED

28/3/2018

DATE

Pretorius
SIGNATURE

In the matter between:

PUBLIC PROTECTOR

APPLICANT

And

SOUTH AFRICAN RESERVE BANK

RESPONDENT

JUDGMENT

PRETORIUS J.

- (1) The applicant seeks leave to appeal to the Supreme Court of Appeal in

terms of section 16(1)(a)(ii) of the **Superior Courts Act**¹. The applicant is seeking leave to appeal against the *de bonis propriis* cost order that was granted against her personally in paragraphs 4.3 of the order which provided:


“4.3 The first respondent, in her personal capacity, is ordered to pay 15% of the costs of the South African Reserve Bank on an attorney and client scale, including the costs of three counsel, de bonis propriis.”

- (2) The South African Reserve Bank launched a conditional application for leave to cross appeal against the part of the judgment and order of the Full Bench that dismissed the Reserve Bank's application for a declaration that the Public Protector had abused her office during the investigation that lead to Report 8 of 2017/2018. The application is conditional and should only be granted in the event that the court grants leave to appeal to the Public Protector. The Reserve Bank will not persist with the application for leave to cross appeal if the court refuses leave to appeal to the Public Protector.
- (3) At the outset counsel for ABSA indicated to the court that it was not clear from the application for leave to appeal, whether it would relate in any way to any other order. Correspondence between the attorneys for ABSA and attorneys for the Public Protector indicated that the

¹ Act 10 of 2013

application for leave to appeal relates to the order under prayer 4.3 of paragraph 131 of the judgment and is premised on the findings set out in paragraphs 127 and 128 of the judgment. Counsel for the Public Protector satisfied the court, and counsel for ABSA, that the only order against which the application for leave to appeal relates is the order under prayer 4.3.

- (4) After this had been clarified, counsel for ABSA was excused.
- (5) We have once more considered all arguments, the application for leave to appeal, as well as sections 16(1)(a)(ii) and 17(1) of the **Superior Courts Act**.
- (6) We find that there is no reasonable prospect that another court will come to a different conclusion due to the reasons as set out in the judgment.
- (7) In the result the following order is made:
 - 1. The application for leave to appeal is dismissed with costs.



Judge C Pretorius

I agree.



Judge N P Mngqibisa-Thusi

pp

I agree.



Judge D S Fourie

Case number	: 52883/2017
Matter heard on	: 26 March 2018
For the 1 st Respondent	: Adv P Kennedy SC Adv T Manchu
Instructed by	: Motsoeneng-Bill Attorneys Inc.
For ABSA	: Adv. G Marcus SC
Instructed by	: Webber Wentzel Attorneys
For the Reserve Bank	: Adv K Hofmeyr
Instructed by	: Werksmans Attorneys
Date of Judgment	: 28 March 2018