

**STATEMENT BY GILDENHUYS MALATJI ON BEHALF OF  
MINISTER PRAVIN GORDHAN**

We have received the attached summons directed to Minister Pravin Gordhan to appear in the Regional Division, Pretoria Court 16 on 2 November 2016. The summons were received by Minister Gordhan's office in circumstances where we had expected that the National Director of Public Prosecutions ("NDPP") will interact with us in light of the correspondence exchanged between our office and the NDPP dating back to 18 May 2016. We had repeatedly requested that the NDPP afford Minister Gordhan the opportunity to make written and/or oral representations before making a decision on whether to prosecute or not. In particular, the NDPP, Adv. S. K. Abrahams, advised us on 25 August 2016 that he will only consider our request to make representations to him on whether to initiate a prosecution or not once the investigation has been concluded and a docket has been submitted to the National Prosecuting Authority. It is surprising that we have only received a letter dated 4 October 2016 but only sent to our office this morning advising that Minister Gordhan is an accused person. The correspondence exchanged between our office and that of the National Prosecuting Authority is attached.

The other difficult matter for Minister Pravin Gordhan to appreciate is the nature of the charges. We were firstly advised that he is not a suspect during May 2016. In August 2016, Minister Pravin Gordhan was advised that he should give a warning statement which by its very nature meant that he is now considered to be a suspect in relation to very clearly defined charges. It was contemplated by the HAWKS that he has contravened the provisions of Sections 1, 34 and 81(2) of the Public Finance Management Act, 1 of 1999, that he was guilty of corruption in terms of Section 3, 4 and/or 10 of the Prevention of Corrupt Activities Act, 12 of 2004 as well as Section 3 of the National Strategic Intelligence Act, 39 of 1994. These related to the establishment of an investigative unit at SARS and the early retirement of Mr Ivan Pillay as SARS Deputy Commissioner.

The charges now preferred against Minister Pravin Gordhan are charges of fraud alternatively theft insofar as it relates to Mr Pillay's early retirement. Fraud is defined as **“the unlawful and intentional making of a misrepresentation which causes actual prejudice or which is potentially prejudicial to another”**. In order to succeed in proving the crime of fraud, the State must establish the elements of the crime which are defined as first, a misrepresentation, second, prejudice or potential prejudice to another, third, unlawfulness and lastly an intention to show prejudice.

The Minister is taking counsel on all available legal avenues to bring this matter to an expedited end.

Tebogo Malatji

Gildenhuis Malatji Inc

11 October 2016

All the documents mentioned in this statement are available at (**Gildenhuis Malatji's website, [www.gminc.co.za](http://www.gminc.co.za)**)