

**APPLICANT: MR. BURT SILVERTON LAING**

**COURT FOR WHICH CANDIDATE APPLIES: KWAZULU-NATAL HIGH COURT (DURBAN)**

**1. The candidate's appropriate qualifications**

1.1. The candidate holds the following degrees:

- 1.1.1. Bachelor of Arts Degree (1981), University of Natal;
- 1.1.2. Bachelor of Laws Degree (1983), University of Natal;
- 1.1.3. Diploma in Theology (2005), Durban Christian Centre (Durban);
- 1.1.4. Conveyancing Practice (2006), Law Society of SA (LEAD);
- 1.1.5. Judicial Skills Training (2009), Law Society of SA;
- 1.1.6. Advanced Certificate in Insolvency (2011), University of Pretoria;
- 1.1.7. Divorce Mediation Certificate (2011), Law Society of South Africa;
- 1.1.8. Introduction to Commercial Law Certificate (2014), Law Society of South Africa; and
- 1.1.9. Commitment to Leadership Integrity Certificate (2014), LEAD BLA Education Centre.

- 1.2. The candidate has sat as an Acting Judge in the Durban High Court on numerous occasions from 2015. He most recently completed a month's stint as an Acting Judge on 27 March 2020.
- 1.3. The candidate is therefore appropriately qualified.
- 1.4. The candidate's career path:

#### **LEGAL**

- 1.4.1. 1983-1984: Articled Clerk, Farouk Vahed and Co;
- 1.4.2. 1985: Admitted as an Attorney;
- 1.4.3. 1985-1986: Professional Assistant, Farouk Vahed and Co;
- 1.4.4. 1986: Partner, Laing and Frank;
- 1.4.5. 1986-2008: Partner, Laing, Frank and Macdonald;
- 1.4.6. 2008-current: Sole Proprietor, Laing and Associates;
- 1.4.7. 2008: Admitted as a Conveyancer;
- 1.4.8. Approximately 2016: Magistrate, Pinetown Regional Court;
- 1.4.9. 2015-2020: Acting Judge (Durban High Court); and
- 1.4.10. 1985-current: Member of the KwaZulu-Natal Law Society.

#### **NON – LEGAL**

- 1.4.11. 1981-1982: Part-time Librarian, University of Natal.

2. **Whether the candidate is a fit and proper person**

2.1. The candidate is a practising attorney and has received a Certificate of Good Standing from the Legal Practice Council.

2.2. The candidate, as per the certificate, has never been removed from the Roll of Attorneys, nor suspended from practice and has no proceedings pending by the Council to strike his name from the Roll or suspend him from practice.

2.3. The candidate has been an admitted attorney since 1985 and has sat as a Regional Court Magistrate and an Acting Judge (between 2015 to 2020), with no adverse comments having been received in respect of his character.

2.4. Further, the candidate's referees are persons of high repute, namely: Justice Poswa (retired Judge); Judge Gregory Noel Kruger (current High Court Judge, KZN) and Colin La Foy (executive member of the Assemblies of God, South Africa).

2.5. Therefore, the candidate is a fit and proper person.

3. **Whether the candidate's appointment would help to reflect the racial and gender composition of South Africa**

3.1. The candidate is a Coloured male.

3.2. From a race perspective, the candidate's inclusion would better reflect the racial composition of South Africa.

3.3. From a gender perspective, however, there is a need for more female representation on the bench.

3.4. Therefore, the candidate's appointment would advance the racial composition of the judiciary, but would not advance the gender composition.

4. **The candidate's knowledge of the law, including constitutional law**

4.1. From his commencement as an articled clerk to date, the candidate has conducted his own appearances in court for, inter alia, debt collection proceedings, general civil applications, bail applications, civil and criminal trials and criminal appeals.

4.2. The candidate has also personally conducted appeals in the Supreme Court of Appeal, Western Cape Full Bench and KZN High Courts.

4.3. The candidate's first 20 years of practice had a Criminal Law focus, with the last 10 years having a Civil Litigation and Family Law focus. The candidate does not have constitutional experience, and very limited administrative law experience.

4.4. The candidate is in possession of a diploma in Insolvency Law.

4.5. He further has practical experience in Banking Law, Insolvency Law, Personal Injury Claims, Medical Malpractice and Insurance.

4.6. As a magistrate in the Pinetown Regional Court, the candidate conducted trials, bail applications, pleas of guilty and general applications.

4.7. The candidate has sat as an Acting Judge in the Durban Division, having attended to various Criminal trials, reviews, petitions, applications for leave to appeal, Criminal appeals, Civil trials, opposed applications and sessions of Motion Court.

4.8. The candidate has referred to the following judgements, which he wrote during his appointment as an Acting Judge and which demonstrate the scope of his knowledge in these areas of law:

4.8.1. *Ebra-Link Logistics (Pty) Ltd v Great Bridge Logistics CC*

4.8.2. *Bongani Emmanuel Maswabi v Minister of Police*

4.8.3. *State v Bongani Manyathi and Two Others*

## 5. **The candidate's commitment to the values of the Constitution**

5.1. The candidate's commitment to the values of the Constitution is evident in the following ways:

5.1.1. He is a member of and therefore aligns himself with the Black Lawyers Association, which is committed to transformation of the legal sector.

5.1.2. The candidate also aligns himself with fairness and social justice in the administration of justice.

## 6. **Whether any judgments have been overturned on appeal**

6.1. The candidate lists one judgement that has been taken on appeal, but which was *not overturned* on appeal.

## 7. **The extent and breadth of the candidate's professional experience**

7.1. The candidate's professional experience began upon completion of his LLB – when he became an articled clerk and was thereafter retained as a Professional Assistant in Farouk Vahed and Co.

7.2. The candidate's practical experience thereafter is substantial, having been a litigation attorney for more than 20 years and having sat as a Regional Court Magistrate and as an Acting Judge in the Durban High Court on numerous occasions (since 2015, having completed a month's stint on 27 March 2020).

7.3. The candidate has gained further legal experience (a substantial amount of which consists of quasi-judicial experience) in the following ways, which has considerably broadened the extent of his professional experience:

7.3.1. He attends to legal issues involving the Assemblies of God South Africa on both a local and national level. This includes attending to disciplinary issues, labour issues and issues surrounding the purchase and sale of property.

7.3.2. He assists pro amico as Chairman of the Sparks Estate Community Centre, wherein he sits on various matters involving the Centre, leases, labour and other contractual issues.

7.3.3. He was Chair of the Disciplinary and Appeals Board of the Durban Central Football Association.

- 7.3.4. From 2015 to 2017 he was the Evidence Leader on behalf of the KZN Society in a disciplinary enquiry.
- 7.3.5. He presided as a member of the Disciplinary Board of the KZN Law Society.
- 7.3.6. He was Chairman on one occasion and a member of the Disciplinary Committee of Assemblies of God, South Africa.

## **8. The candidate's linguistic and communication skills**

- 8.1. The candidate has an excellent command for writing judgements in plain and clear language, making them easily readable and understandable.
- 8.2. From the candidate's judgments, he shows a clear proficiency in the English language. He is also fairly proficient in Afrikaans.
- 8.3. No adverse comments have been raised in respect of the candidate's communication skills.

## **9. The candidate's ability to produce judgments promptly**

- 9.1. The candidate has no reserved judgements outstanding to his name.

## **10. The candidate's fairness and impartiality**

- 10.1. The analysis of the candidate's judgments indicates that the candidate carries out his role with the fairness and impartiality it requires.

- 10.2. The candidate also chaired various enquiries throughout his career, with no adverse comments having been received in respect of his fairness and impartiality.

**11. The candidate's independent mindedness**

- 11.1. No adverse comments have been received.
- 11.2. An analysis of the candidate's judgments indicates that the candidate has an independent mind.

**12. The candidate's ability to conduct court proceedings**

- 12.1. As a litigation attorney the candidate has made several court appearances, which included appearing in the Supreme Court of Appeal, the Western Cape Full Bench and the KZN High Courts.
- 12.2. The candidate has also acted as a Regional Magistrate and an Acting Judge on a number of occasions.
- 12.3. The candidate can therefore be expected to have well-developed skills in conducting court proceedings.
- 12.4. The candidate has also written judgments that were neither appealed nor overturned on appeal.
- 12.5. Further, no adverse comments have been received regarding his ability to conduct court proceedings.

**13. The candidate's administrative ability**

- 13.1. No adverse comments have been received regarding the candidate's administrative ability.

**14. The candidate's reputation for integrity and ethical behaviour**

14.1. No adverse comments have been received.

**15. The candidate's judicial temperament**

15.1. No unfavourable comments have been received.

**16. The candidate's commitment to human rights, and experience with regard to the values and needs of the community**

16.1. The candidate has committed himself to serving the community and advancing human rights in the following ways:

16.1.1. He assists pro amico as Chairman of the Sparks Estate Community Centre.

16.1.2. He is an Elder of the Bethel Assemblies of God Church in Sydenham and assists pro amico in respect of legal matters involving the institution.

16.1.3. He has served on the Gordon Road Girls School Trust for almost 20 years and presently occupies the position of Co-opted Trustee.

16.1.4. He is the Chairman of the Appeals Board of a SAFA Affiliate (Durban Central Football Association).

16.1.5. He was an Exco Member of the Black Lawyers Association for 3 years (2013-2016).

- 16.1.6. He was a member of the Association for Black Business Rescue and Insolvency Practitioners of South Africa for approximately 4 years.
- 16.1.7. In 2015 he was the convener of the Newly Admitted Attorneys Committee of the Durban Branch of the Black Lawyers Association (the function of the committee was to assist, advise and empower articled clerks and newly admitted attorneys).
- 16.1.8. He has trained several candidate attorneys over his 35 years as an attorney and trained 3 candidate attorneys whilst being a single practitioner.
- 16.1.9. He assists the underprivileged with Civil and Criminal litigation.
- 16.1.10. He has done a considerable share of Legal Aid and Pro Bono work.

## **17. The candidate's potential**

- 17.1. The candidate would, if appointed, strengthen the High Court with both his breadth of legal knowledge and experience and his demonstrable commitment to social and administrative justice.

## **18. The message that the candidate's appointment would send to the community at large**

- 18.1. The candidate's appointment would send a message to the community that the judicial system both recognizes and supports the inclusion of Coloured persons in its current

dispensation. It is undeniable that Coloured persons are historically disadvantaged and need greater representation than that which the judiciary currently reflects.

18.2. The candidate's appointment would further reflect the judiciary's commitment to the pursuit of social and administrative justice, as fundamental tenets of the Constitution.

18.3. The candidate also displays extensive ability as a legal practitioner and administrator of justice, which would demonstrate to the community that the judiciary is committed to preserving its high standard of competency and expertise.