



BIENNIAL REPORT  
A JOURNEY 2010-2011

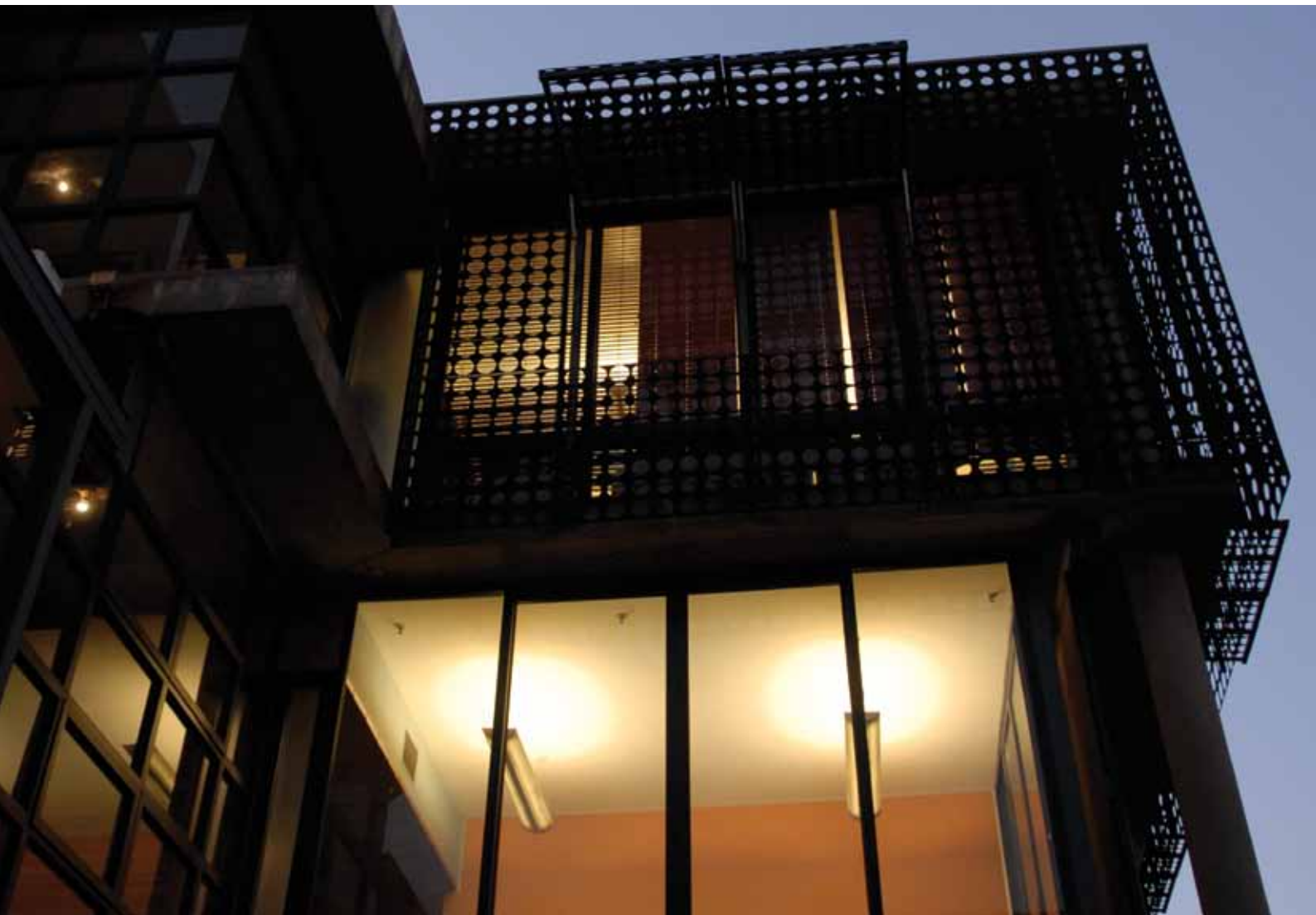


2010-2011

# A JOURNEY WITH PROBONO.ORG

## Contents

Letter from the Chairs	5
Director's Report, 1 October 2009 – 31 January 2011	6
Director's Report, 1 February 2011 – 30 September 2011	7
The Road to Durban	9
The Journey of the Shack Dwellers	10
The Journey of Gary Allpass	11
The Journey of Tresor Matoleo	12
Moving Ahead: ProBono.Org Projects	15
15 April 2011: Visit by the Chief Justice	17
Chief Justice's Speech	18
Dynamic Donors	19
ProBono Law on the Airwaves	20
Women's Day Focus	23
Staff Sound Bites	24
Directors	26
Tribute to Dr Ivan May	28
Financial Statements: 2010	29
Financial Statements: 2011	32



2010 - 2011

## LETTER FROM THE CHAIRS



*Andy Bester (2011)*  
*Johannesburg Bar Council*



*Claire Tucker (2010)*  
*Bowman Gilfillan*

With the continued support of the legal profession ProBono.Org has, as in previous years, again been able to make a difference in the lives of many who, for lack of resources, would otherwise not obtain access to justice.

The Atlantic Philanthropies' Sustainability for Human Rights Organisations Programme, facilitated by Inyathelo, continued during this period. As previously reported, the programme aims to promote the sustainability of civil society organisations that are active in the area of defending the human rights of the poor and marginalised. It is with great pride that we can report that ProBono.Org attained all the milestones set for the year under review. These focused on the following aspects:

- Enhancing the advancement capacity of, and creating advancement roles and functions for all ProBono.Org staff;
- Researching and planning a data and information management system that will serve the longer-term advancement needs of ProBono.Org;
- Brainstorming on fundraising and advancement strategies for ProBono.Org, focusing particularly on income streams to cover core costs;
- Identifying 30 prospective new donors and making contact with 10 of those donors; and
- Devising and implementing a system of quarterly

feedback from the panels of lawyers to provide relevant data in support of advancement functions.

Apart from fulfilling its clearing house functions, ProBono.Org has significantly expanded the range and number of workshops now under its auspices. Regular workshops are being held in respect of immigration issues, HIV/Aids issues, children's rights and the Wills Project.

It is with pride that ProBono.Org took up office space in the old Women's Jail on Constitution Hill during October 2009. Flanked by the museum, and on the doorstep of the Constitutional Court, ProBono.Org's commitment to providing access to justice and the realisation of human rights for all now has a physical manifestation in this historical setting.

As always, the advancement of ProBono.Org's goals requires financial support. As an organisation we are dependent on the foresight and civil-mindedness of others. Through its day-to-day activities ProBono.Org, continues to show that it is worthy of such support. It is a blueprint of how to work towards increasing access to justice.

1 October 2009 – 31 January 2011

## DIRECTOR'S REPORT



Odette Geldenbuys

Reflecting on the period 1 October 2009 to 31 January 2011 reminds me of a saying: “To get through the journey we need to take only one step at a time, but we have to keep on stepping.”

The highlights on this part of the journey were the growing roles of interns and volunteers in ProBono.Org and the launch of many new projects, both signalling a growth in what we can offer.

The internship programme grew from an *ad hoc* initiative to a programme offering law graduates the opportunity to gain practical skills in client liaison, research and drafting. Volunteers with a range of skills have been generously giving of their time to the organisation. New projects – including the Inner City Housing Clinic, the Competition Law Project, the Maintenance Help Desks and the Community Advice Office Support Project – were the fruits of our constant quest to expand the *pro bono* services we offer to the public.

A major landmark was our move to Constitution Hill, where the nine-metre-high timber doors of the Constitutional Court, depicting the 27 rights enshrined in the Constitution, is a daily affirmation of ProBono.Org's objectives. The symbolic significance of our proximity to

the Constitutional Court was also matched by a practical consideration – greater accessibility for both clients and lawyers.

Significant markers of ProBono.Org's extended services during this period were the granting of law clinic status by the Law Society of the Northern Provinces and the conclusion of a joint venture agreement with the same law society. In terms of the agreement both parties recognise the role of *pro bono* legal work in making the constitutional right of accessing justice a reality.

After considering the impact of ProBono.Org in Johannesburg, as well as the need for similar services elsewhere, the Board of Directors decided to open a second office, and Durban was earmarked for this exciting expansion.

I thank the Board for entrusting me with the stewardship of ProBono.Org until 31 January 2011, and to Simon Delaney I say, “Bon voyage!” May this journey of exploration and expansion continue along its sometimes unexpected, but always exciting, path.



1 February to 30 September 2011

## DIRECTOR'S REPORT



*Simon Delaney*

**D**uring the period under review, the Durban office of ProBono.Org was opened to confront the social justice challenges of KwaZulu-Natal. Odette Geldenhuys directs the office and has to date signed up 30 law firms to serve over 150 clients at the Labour Court Help Desk and Refugee Law Clinic.

Furthermore, ProBono.Org continues to link up community advice offices with attorneys in Limpopo, North West and the Vaal, through legal clinics and seminars.

ProBono.Org hosted a special event at Constitution Hill to honour the practice of public interest law in South Africa. Chief Justice Sandile Ngcobo gave the keynote address. We screened a documentary on George Bizos SC, produced by Odette Geldenhuys. Seminars were held on Women's Day and World Refugee Day.

Among our key success stories during 2011 is that of Gary Allpass, who was unfairly dismissed by Mooikloof Estates because of his HIV status. ProBono.Org enlisted expert lawyers to represent Gary on a *pro bono* basis, and he subsequently won his case in the Labour Court.

ProBono.Org also opened advice offices at the Johannesburg High Court, Labour Court and Master's

Office. The South African Society for Labour Law (SASLAW)/ProBono.Org Advice Office at the Johannesburg Labour Court has assisted over 90% of the 1 013 cases that have come before it to date.

Specialist clinics offer advice on consumer rights and claims against the police, and we hope to continue this momentum as we further extend the scope and range our services to those who need them.

Most affirming for us, was to have won the 2011 Dr Ivan May Memorial Award, an award made by the Mail & Gaurdian for Drivers of Change. The judges commented on the role ProBono.Org is playing in forwarding the rights of the poor, and transforming society. (see page 28)



*Literally, setting up office in Durban.*



# THE ROAD TO DURBAN



*Flying the flag in KZN*



*Pro bono lawyers lining up*

**T**he next stop in the ProBono.Org voyage is Durban. On 1 April 2011 we opened our second office amid the hustle and bustle of the Durban CBD. It is a convenient location, easily accessible by clients and within walking distance of the CCMA, Labour Court, High Court, and various law firms and counsels' chambers.

Similar to the way in which the Johannesburg office operates, the Durban office has a clearing house function and manages the Refugee Legal Clinic and the SASLAW/ProBono.Org Advice Office project. Funding for the Refugee Legal Clinic is facilitated by the Foundation for Human Rights, which is, in turn, funded by the Department of Justice and Constitutional Development and the European Union under the Sector Budget Support Programme: Access to Justice and the Promotion of Constitutional Rights.

Our positive relationship with Legal Aid South Africa is guided by the national cooperation agreement between our organisations. We also have complementary working relationships with other NGOs such as the Legal Resources Centre, Lawyers for Human Rights and AFRA (the Association for Rural Advancement).

The welcome we have received upon docking in Durban has been like the weather – warm and embracing. This is reflected in our ongoing discussions with the KwaZulu-Natal Law Society, our relationship with the Durban Bar Council, and the fact that we have referral relationships with 30 law firms. Already the impact of the pro bono legal services offered by Durban lawyers is becoming evident (see the report on the Matoleo matter as but one example). To support the *pro bono* work of the legal profession in the province, ProBono.Org has run a number of free seminars. Our joint efforts have one goal in mind – increasing access to justice.

Odette Geldenhuys, Tracey-Lee Keshwar and Nondumiso Mpanza staff the Durban ProBono.Org office. Furthermore, the office has benefited from the enthusiastic services of interns Mathew Truscott, Avika Kavildeen and Lungelo Magubane.

Reghana Tulk:

## THE JOURNEY OF THE EKURHULENI SHACK DWELLERS



*Reghana Tulk*

**D**uring the period under review, 72 shack dwellers on the East Rand found themselves unlawfully evicted and their shacks demolished by the Ekurhuleni Metropolitan Council. Urgent intervention by Reghana Tulk resulted in the municipality restoring their possessions, and building and allocating to them 72 temporary residential units, which they could occupy until such time as they could be permanently housed.

This is a typical day at the office for Ms Tulk. As a partner to ProBono.Org through her position as director of Bell Dewar's *pro bono* department, Ms Tulk has donated countless hours to matters and clinics, and continues to assist marginalised individuals in their quest for justice – all because “it is the right thing to do”. Her department at Bell Dewar seeks to enforce constitutional rights, particularly in the areas of employment law and housing law, without any distinction between the professional service rendered to non-fee-paying and fee-paying clients.

Not all of Ms Tulk's matters have an impact on large numbers of people at a time, as in the case mentioned above. Individuals also matter to her. She acted for an HIV-positive lecturer who was dismissed and whose status was unlawfully disclosed by his employer, a well-known college. Arbitration ensued and resulted in the college agreeing to compensate her client, thereby restoring the man's dignity.

Having qualified at the Wits Law Clinic and obtained her masters degree at Columbia University in New York, Ms Tulk subsequently clerked at the Constitutional Court in the chambers of Justice Thembile Skweyiya.

It's a sterling résumé for a young woman who eschews the limelight, preferring to let her work do the talking. It is totally within her character to agree to institute urgent proceedings on a Saturday, despite her plate being full to overflowing and her free time compromised.

Her *pro bono* work also includes presentations, particularly on the management of HIV in the workplace, which is another of her favourite topics.

Advocate Warren Bank, Ayanda Khumalo and Advocate Adila Hassim:

## THE JOURNEY OF GARY ALLPASS



Advocate Warren Bank



Ayanda Khumalo



Advocate Adila Hassim

**O**n 16 February 2011, Judge Urmila Bhoola delivered her judgment in *Gary Shane Allpass v Mooikloof Estate*, as follows:

The dismissal of Mr Allpass was unfair, and Mooikloof Estate was ordered to pay 12 months' remuneration to Mr Allpass and to settle all his legal costs.

This judgment – part restitution, part punishment – was for unfair discrimination on the grounds of Mr Allpass's HIV-positive status.

It started in October 2008, when Mr Allpass was offered employment as a horse-riding instructor and stable manager at the Mooikloof Equestrian Centre. This appointment followed a successful interview during which, in response to one of the questions that related to his wellbeing, he answered that he was in good health.

Work began on 1 November 2008, and 10 days later he and two colleagues were asked to complete a form disclosing any intake of chronic medication. Mr Allpass listed the medicines necessary to manage his HIV infection, which had allowed him to live a normal life for the past 18 years and which also ensured the able performance of his new duties.

Dawie Malan, his employer, was infuriated by this disclosure and promptly dismissed him on the grounds that Mr Allpass was "severely ill". Not long after this, Mr Allpass was insulted, called a "moffie" and a vagrant, and manhandled out of his Mooikloof Estate lodgings, without having alternative accommodation.

Mr Malan's version of events is not mentioned here simply because Judge Bhoola rejected the greater part of it.

How did an unemployed person find himself in a labour court three years later, facing a judge about to find in his favour? This turn of events came about thanks to the *pro bono* services provided by Webber Wentzel, NGOs SECTION27 and ProBono.Org, and Advocate Warren Bank. The attorney of record was Ayanda Khumalo of Webber Wentzel, who heard of Mr Allpass's plight at the HIV/Aids clinic at ProBono.Org's offices, which she regularly staffs. Fortuitously, one of her areas of expertise is HIV/Aids workplace discrimination, and she quickly set about finding assistance from Advocate Warren Bank, who offered his services on a *pro bono* basis. Despite the consultations with Mr Allpass and medical experts, as well as the settlement of pleadings and pre-trial preparations, collectively dragging on for over two years, Advocate Bank and Ms Khumalo remained dedicated and involved, enlisting further expertise from Advocate Adila Hassim of SECTION27, which resulted in a formidable alliance.

As Advocate Hassim put it: "The partnership between private legal professionals, NGOs and social movements brings an expertise that is invaluable in guiding the litigation strategy."

That strategy worked for Gary Allpass. May it continue to work for many more.

Wendy Hughes-Madondo and Advocate Bruce Bedderson:

## THE JOURNEY OF TRESOR MATOLEO



*Wendy Hughes-Madondo*



*Advocate Bruce Bedderson*

**T**resor Matoleo's application for asylum in South Africa was first rejected by the Department of Home Affairs (DHA) in 2008, whereupon he immediately lodged an appeal. On his way to the appeal hearing he was robbed of all his documents, including his appeal papers. Arriving at the DHA offices paperless, security personnel refused him entry and the appeal was dismissed in his absence.

Mr Matoleo then requested a legal representative to lodge an application on his behalf for condonation for missing his appeal hearing. This was done and the representative's office contact details were supplied for correspondence with the DHA.

While waiting to hear whether the condonation would be granted, Mr Matoleo was stopped by police, who requested proof of residence. His frantic explanations fell on deaf ears and were met with the retort: "Tell your story at Lindela."

Lawyers for Human Rights stepped in and secured his release from the Lindela Repatriation Centre. However, it was discovered that his prior application for condonation had, indeed, been granted, notice of which had been sent to his legal representative, who had omitted to inform him of the new appeal date. Once again, his absence at this hearing resulted in the refusal of a subsequent condonation application!

Mr Matoleo then took his woes to the brand-new offices

of ProBono.Org in Durban. A request for assistance was answered by Wendy Hughes-Madondo who, along with Advocate Bruce Bedderson, offered to take up the case pro bono, seven days prior to Mr Matoleo's deportation date.

Their combined experience of some 30 years was gained primarily in corporate law, but both rose to the challenge of engaging in this new legal field – and in double-quick time too! Together they managed to assemble a thorough application in just a few days, resulting in the suspension of Mr Matoleo's deportation proceedings with 24 hours to spare.

In Ms Hughes-Madondo's words:

"We were approached by ProBono.Org in Durban to bring an application, which is run-of-the mill work for our firm. Into our office walked a neatly-dressed and well-groomed man. He was armed with a pen and a smile. Only later did I learn that Tresor Matoleo had hitchhiked from Ficksburg in the Free State – where he is plying his trade as a hairdresser so as to make an honest living – to reach Durban in time for his consultation with us on a Friday morning.

"Here was a man, keeping up his own dignity despite being a victim of a system that failed him, and despite having a place called 'home' which is a country he cannot return to.

"For me, meeting and representing Mr Matoleo was a real eye-opener. Through him I learnt what it actually means

to be a 'refugee', and it alerted me to the physical and emotional hardships of many, many people throughout the world who are in a similar position.

"In commercial practice, the bottom line counts. But I ask myself: if there were no *pro bono* legal services in our country, what would have happened to Tresor? This exposure to the impact *pro bono* legal work can have on the lives of vulnerable individuals has led to my firm adopting a voluntary policy in terms of which all the professionals have made a commitment to ring-fence time for *pro bono* work."

Mr Matoleo wants to forget the trauma he left behind in the Democratic Republic of Congo. Hopefully he can also forget the dismal start he had in South Africa.

A big thank you to Wendy Hughes-Madondo and Advocate Bruce Bedderson for their assistance.



*A refugee finding refuge in a lawyer's office*





*Carlien Koen accompanies 60 women from Orange Farm to the Vereeniging Magistrate's Court, November 2010*



# MOVING AHEAD: PROBONO.ORG PROJECTS



*Pensioners in Limpopo*



*Refugee in Limpopo*

**W**e operate in a number of innovative and strategic ways to entice and encourage private legal practitioners to do *pro bono* work. At our office, situated at the historic Women's Jail at Constitution Hill, we run our general clearing house. Here we invite NGOs, CBOs, courts, government departments, police stations and other organisations to refer clients to us who need legal assistance and fall below our means test. Members of the general public hear about us and come to us through referrals and by word of mouth.

We run legal clinics both at our office and offsite, where *pro bono* lawyers come and assist clients with specialised problems. Initially we had a weekly Refugee Legal Clinic and HIV/Aids Legal Clinic, but in the last year we have established an Inner City Housing Clinic, a Consumer Rights Clinic (staffed by Werksmans), a help desk at the Master's Office in Johannesburg, a divorce help desk at the Johannesburg Regional Court, and four help desks at the Roodepoort, Alberton, Vanderbijlpark and Vereeniging magistrate's courts for family law, maintenance and child rights matters.

Moreover, in collaboration with SASLAW, we started a Labour Law Clinic at the Johannesburg Labour Court in 2011 that runs three mornings per week. Once a month we hold a clinic for victims of police brutality, staffed by Eversheds. Finally, we successfully launched a *pro bono*

project on competition law after being approached by the Competition Tribunal, which indicated the need for this. We are currently investigating an environmental law initiative.

These clinics, help desks and projects are generally staffed by attorneys on a rotational basis. If the matters are complex and cannot be resolved there and then, the attorneys take them back to their firms and open files, or we refer the matters to attorneys on our panel.

We have established a successful Wills Project whereby lawyers give communities advice on succession planning and draft wills for them. The workshops are held in community halls and hospices.

We also established a Community Advice Office Support Project in July 2010. Community Advice Offices (CAOs) operate at a grassroots level in communities around South Africa assisting poor people with their legal problems. In partnership with the National Alliance for the Development of Community Advice Offices (NADCAO) and other NGOs and CBOs, ProBono.Org recruits lawyers in small towns and rural areas to undertake *pro bono* work and give legal support to CAOs, CBOs and NGOs, and their clients.



*Chief Justice Sandile Ngcobo*

**15 April 2011:**

## THE CHIEF JUSTICE VISITS PROBONO.ORG



*Advocate George Bizos SC*



*Johan Griese, LSNP*



*Kimani Ndungu and Simon Delaney*

**O**n 15 April 2011, ProBono.Org hosted a special event to honour the practice of public interest law in South Africa. Chief Justice Sandile Ngcobo gave the keynote address. Among other things, he spoke about how the constitutional right to justice enshrined in Section 34 is of no value without legal representation.

Simon Delaney, the National Director of ProBono.Org, thanked members of the legal profession for their contribution to *pro bono* work, and said that it takes “an outstanding human being” to do *pro bono* cases. He likened such work to a ferry sinking in a river: while it is obviously of key importance to ensure that the ferry gets fixed, you cannot neglect the drowning individuals downstream. These people cannot wait. Their issues are immediate and of the utmost importance, and they require assistance straight way.

Both the Chief Justice and Mr Delaney paid tribute to

Advocate George Bizos SC, who has devoted his life to serving the public interest. Adv Bizos was present and watched, along with the audience made up of NGOs, advocates and attorneys, “Here Be Dragons”, a documentary about his life and achievements made by ProBono.Org’s Durban Regional Director, Odette Geldenhuys. The film has been described as follows:

“George Bizos is an international human rights icon, synonymous with saving Nelson Mandela from the gallows, with the inquest into Steve Biko’s torture and death, and with more political trials than any other lawyer in South Africa. ... Intimately the film explores his life; not only George as Mandela’s lawyer, but also George the gardener and storyteller. It reveals his humour despite tragic injustices, his humility despite having shaped the destiny of South Africa, and how the law became his sword to slay the dragons.”

# CHIEF JUSTICE'S SPEECH



Chief Justice Sandile Ngcobo

Chief Justice, Sandile Ngcobo, addressed an audience of pro bono lawyers, mediators and NGOs at ProBono.Org's annual event held on 15 April 2011.

He addressed two issues: firstly, the constitutional guarantee of access to justice and its relation to legal representation; and secondly, the importance of ProBono.Org.

The Chief Justice stated that Section 34 of the Constitution provides a guarantee of access to the courts, and that it is this right that will guarantee social justice, human dignity and respect for human rights. The section declares that:

*"Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum."*

Chief Justice Ngcobo interrogated the meaning of this right, stating that implicit in the constitutional guarantee enshrined in Section 34 is the broader promise of access to justice, and that access to justice requires legal representation.

Unrepresented litigants are compromised in a justice system premised on the adversarial process. Can justice be served, he asked, where parties approach the court on an unequal footing?

He went on to say that the question that needs to be

answered is: who will advance the best interests of those without financial resources to pay for legal representation? The answer, he said, is that the legal profession must play its part.

The Chief Justice pointed out that ProBono.Org, the first public interest clearing house in South Africa, is filling this gap by enabling law firms and advocates to render pro bono legal assistance to poor and marginalised people. He praised ProBono.Org for facilitating the involvement of private practitioners in the provision of legal services, and for drawing on the goodwill and social conscience of the legal community. He went on to thank the legal profession for supporting the work of ProBono.Org and encouraged them to keep up the good work.

He concluded by quoting what the Constitutional Court said in *Lesapo v North West Agricultural Bank and Another*:

*"The right of access to court is, indeed, foundational to the stability of an orderly society. It ensures peaceful, regulated and institutionalised mechanisms to resolve disputes, without resorting to self-help. The right to access to court is a bulwark against vigilantism, and the chaos and anarchy which it causes. Construed in this context of the rule of law and the principle against self-help in particular, access to court is, indeed, of cardinal importance."*

# DYNAMIC DONORS



*Gerald Kraak*



*Zorah Dawood*



*Nobayeni C. Dladla*

**P**roBono.Org is fortunate to receive support from a wide range of donors. In 2008 we had nine donors, in 2009 we had 14, and during the 2010 financial year we had support from 21.

The Atlantic Philanthropies has continued to be our largest supporter and we hope to continue the relationship with them until they close down in 2016. This foundation initially gave us four-year funding in 2006, then a two-year grant for 2010 and 2011. We are grateful that they have had such enormous faith and confidence in us, as without such generous start-up funding, and continuing as it has done, we would not have been able to establish our viability with other donors.

We are pleased to say that we have a good mix of both local and international donors, with a great contribution having been made for the third year in a row by our board member attorneys' firms and the Johannesburg Bar Council. The firms are Bell Dewar, Bowman Gilfillan, DLA Cliffe Dekker, Eversheds, Norton Rose (formerly Deney's Reitz), Webber Wentzel and Werksmans.

We received generous three-year funding from the Raith Foundation for our Maintenance Help Desk Project,

and from another private foundation for our children's rights and women's rights work. And the Open Society Foundation has, for the second year in a row, supported our Community Advice Office and Community-Based Organisations, Legal Support Project (CLASP). The Claude Leon Foundation, Belgian Embassy, DG Murray Trust and Foundation for Human Rights have also generously supported our work.

Other generous donors are the Anglo American Chairman's Fund, the HCI Foundation and various family trusts administered by BOE.

Inyathelo, the South African Institute for Advancement, has not only provided us with three-year training on advancement functions at no cost, which has included regular courses in Cape Town and at our offices by an array of experts, but has also given us direct monetary grants.

We are constantly working on expanding our donor base and believe that we have a growing appeal to new supporters, because our organisation has a unique multiplier effect in that with a small, streamlined staff and office, we are able to generate ever-growing *pro bono* hours for marginalised and poor South Africans.



# PROBONO LAW ON THE AIRWAVES



*Patrick Bracher*

**O**ur fortnightly constitutional law radio show, hosted by Patrick Bracher of Norton Rose, continues to inform and entertain listeners. He and the team at Radio Today diligently ensure the smooth running of the programmes, and ProBono.Org would like to thank them for their dedication and time.

The programmes are loaded onto our website as podcasts and can be found on [www.probono-org.org](http://www.probono-org.org). They are also kept on the Radio Today website under ProBono.Org.

This year we have covered some interesting topics, which are listed below. We try and use the show to promote an understanding of basic rights, and debate constitutional law issues.

## **The National Health Insurance Act**

Neil Kirby: *Director, Werksmans*

## **The Law and torture**

Marivic Garcia and Zweli Mkhize: *Centre for the Study of Violence and Reconciliation*

## **Constitutional rights of animals**

Dr David Bilchitz: *Director, South African Institute for Advanced Constitutional, Public, Human Rights and International Law*

## **Constitutional implications of the Tax Administration Bill**

Prof Henry Vorster: *Partner, Vorster Pereira, and*

*Chairperson of the Tax Committee of the Law Society of South Africa (LSSA)*

## **Inner city housing and *pro bono* lawyers**

Kisha Candasamy: *Head of General Law, ProBono.Org*

## **The role of Parliament in upholding the constitution**

Ayesha Kajee: *Director, Freedom of Expression Institute*

## **Amendments to the Road Accident Fund Act**

Nicolette Koch: *Adams & Adams*

## **Your right to challenge administrative actions**

David Cote: *Lawyers for Human Rights*

## **Human rights and corporations**

Michelle le Roux: *Advocate at Johannesburg Bar*

## **World Aids Day 2010: People are still fired for being hiv-positive**

Ayanda Khumalo: *Associate, Webber Wentzel*

## **The business case for *pro bono* work**

Simon Delaney: *National Director, ProBono.Org*

## **The need for equal education**

Doron Isaacs: *Coordinator of Equal Education*

## **The constitutionality of company de-registrations**

Alex Elliott: *Director, Eversheds*



*Neil Kirby*



*Dr David Bilchitz*





*Ayesha Kajee*



*Jonathan Berger*



*Vlad Movshovich*



*Okyerebea Ampofu-Anti*



*Ceri Von Ludwig*

**Access to health care services** Jonathan Berger: *Senior Researcher, SECTION 27; Member of the Medicines Control Council and honorary Research Fellow at Wits University*

**Mooikloof Estates v Gary Allpass**

Ayanda Khumalo: *Associate, Webber Wentzel*

**The constitutional rights to dignity, privacy, freedom of expression and reputation in the light of Le Roux v Dey [2011]**

Vlad Movshovich: *Partner, Webber Wentzel*

**Glenister v President of the Republic of South Africa and Others (CCt 48/10)**

Okyerebea Ampofu-Anti: *Associate, Webber Wentzel Attorneys*

**Religious rights and freedoms and their relationship with equality**

Dr David Bilchitz: *Director, South African Institute for Advanced Constitutional, Public, Human Rights and International Law. Senior Research Associate at the University of Pretoria*

**A cohabitation partner's right to maintenance**

Anton du Randt: *Director, Norton Rose*

**Euthanasia and the right to die**

Neil Kirby: *Director, Werksmans*

**Developments in defamation law**

Dario Milo: *Partner, Webber Wentzel*

**The management of HIV in the workplace from a legal compliance perspective**

Reghana Tulk: *Director, Bell Dewar*

**Mediation in the context of family conflict**

Ceri Von Ludwig: *Director, Bowman Gilfillan and Divorce Mediator*

**Customary law in South Africa**

Nomfundo Gobodo: *Regional Director, Legal Resources Centre*

**Balancing competition law and environmental law concerns**

Michal Johnson: *Associate, Eversheds*

**Constitutional rights of minor children**

Amanda van Loggerenberg: *Legal consultant, Wynand du Plessis Inc*

**Update on National Health Insurance Scheme**

Neil Kirby: *Director, Werksmans Attorneys*

**Antenuptial contracts and co-habitation**

Amy Bishop: *Attorney, Bishop Duarte Attorneys*

**Access to justice at the Labour Court**

Anton Myburgh SC: *Johannesburg Bar, executive member of SASLAW*

**The Protection of Information Act**

Iain Currie: *Professor, Wits Law School*

**Freedom of Expression and Hate speech in the context of Afri-Forum and Another v Malema and Another**

Nozipho Mngomezula: *Partner, Webber Wentzel*



*Women's Day Focus Event, 2011*

# WOMEN'S DAY FOCUS



**P**roBono.Org's third Women's Day Focus event took place on 10 August 2011, a freezing Highveld winter's day in the Women's Jail atrium, beneath several gas heaters and with the assistance of copious amounts of hot tea and coffee.

The Black Sash, Family Life Centre, South African History Archive and Tshwaranang Legal Advocacy Centre displayed their posters and pamphlets to publicise their services specifically to women, on this occasion.

Enthusiastic members of the legal profession offered their assistance *pro bono* in matters ranging from deceased estates, divorce, medical negligence and eviction to contracts and motor vehicle collisions, to name a few, to the 28 women who braved the cold to seek help with their respective plights.

Members of the Johannesburg Bar, the Independent Bar, mediators and attorneys from Werksmans, Bell Dewar, Eversheds and Bowman Gilfillan consulted with their new clients at small, round tables, giving the normally austere space a coffee-shop feel. At noon, official business gave way to a delicious finger food lunch for all, followed by a talk on customary marriages by Likhapha Mbatha of the National Movement of Rural Women.

Ms Mbatha spoke of the Recognition of Customary Marriages Act and the legal requirement to register such a marriage. She also mentioned that there was a provision that non-registration would not render such a marriage null and void. Most people did not register their marriages, and from 2008 the Department of Home Affairs stated it would examine each case on its own merits, gathering

evidence and being mindful of ethnic differences in such customs.

Problems tended to arise, Ms Mbatha said, when registration happens upon the death of a spouse married in a customary ceremony in a rural area, and the simultaneous discovery that the partner was also civilly married in an urban area.

It was imperative, in her opinion, to spread the word that evidence and registration of customary marriages take place as close as possible to the actual event, in order to avoid having to pursue lengthy legal avenues.

ProBono.Org's Durban branch held its own Women's Day Focus which was equally successful at the Durban Magistrate's Court, during August.

The challenge for ProBono.Org, after such practical, valuable and informative events, is how to increase the number of clients and lawyers to make them even more impactful.



# STAFF SOUNDBYTES



*Nondumiso Mpanza*

## DURBAN

**For me, working at ProBono.Org means...**

"...that there's always hope for tomorrow with regards to accessing justice and development of people. In reaching out to all people, irrespective of race, culture or background, we recognise that we all deserve justice in order to have a better, more solid society in our country."

**Nondumiso Mpanza, Durban Administrator**



*Tracey-Lee Keshwar*

"...that the advantages, privileges and legal skills that I have been afforded in life can be used to benefit the development and growth of our country, by increasing access to justice and the quality of life of marginalised and indigent people in South Africa."

**Tracey-Lee Keshwar, Durban Staff Attorney**

"...to misquote Bob Dylan, 'knock, knock, knockin' on heaven's door' when our many *pro bono* requests are accepted by such a wide range of diverse lawyers."

**Odette Geldenhuys, Durban Director**



*Odette Geldenhuys*

## JOHANNESBURG

"...a unique and innovative opportunity for legal practitioners to make a meaningful impact on the lives of the poor. I am honoured to be associated with a dynamic organisation that strives to improve the quality of life of the poor and marginalised."

**Sharon Pillay, Johannesburg Staff Attorney**

"...an opportunity to see just how many people are in need of legal assistance, and it makes me happy to be a part of ensuring that they receive the help they need."

**Phumzile Ngencelwa, Johannesburg Administrator**

"...that every day is exciting because the organisation, which plays an important role in increasing access to justice, is dynamic and constantly growing in so many ways."

**Kisha Candasamy, Johannesburg Staff Attorney**

"...being inspired because of the incredible commitment and effort some private sector mediators, attorneys and advocates have shown towards our clients, and because we moved from having seven law firms involved in our *pro bono* work to 100 in our first five years!"

**Erica Emdon, Johannesburg Advancement Director**

"...staff driving our mission, clients accessing justice, and attorneys restoring faith in the system. Our *pro bono* team cares passionately about healing our society."

**Simon Delaney, National Director**





*Erica Emdon*

*Phumzile Ngenhwa*

*Simon Delaney*

*Kisba Candasamy*

*Sharon Pillay*

**At 30 September 2010**

## 2010 DIRECTORS



*Claire Tucker*  
*Chairperson 2010*



*Andy Bester*



*Masizakhe Mathai*



*Erica Emdon*



*Harold Jacobs*



*Janet Love*



*Liesl Williams*



*Moray Hatborn*



*Odette Geldenbuys*



*Ivan May*



*Simon Delaney*



*Bongi Mpitso*



*Rakhee Bhoora*



*Tim Fletcher*



**At 30 September 2011**

## 2011 DIRECTORS



*Andy Bester*  
*Chairperson 2011*



*Claire Tucker*



*Candice Pillay*



*Masizakhe Mathai*



*Erica Emdon*



*Harold Jacobs*



*Janet Love*



*Liesl Williams*



*Zeenat Dasoo*



*Odette Geldenbuys*



*Sandra Gordon*



*Simon Delaney*



*Bongzi Mpitso*



*Reghana Tulk*



*Christine Jesseman*

## Tribute

# DR IVAN MAY



Ivan May was a founding director of ProBono.Org until his sad passing in December 2010. As a founding director of ProBono.Org, Ivan May was prepared to link his name to an organisation not yet in existence. This was because he believed in the principles underlying ProBono.Org's establishment: increasing access to justice for the poor; and growing a culture of pro bono giving among the legal profession.

Ivan May set the bar high for the responsibility of directors and board members when it came to attendance and participation. He was always available – at any time – for a conversation to share his wide expertise in issues relating to advancement, marketing, human resources and corporate governance. The depth and breadth of his networks regularly resulted in strangers making contact with ProBono.Org: people whom he had referred, based on his belief that synergies between independent programmes improved results.

One of ProBono.Org's longest-running projects is ProBono Law, the only South African radio show about constitutional issues. Not only was it Ivan May's idea; he

also facilitated a fortnightly slot for it on Radio Today.

Ivan May assisted and enabled us to move into our current offices at the historic human rights location: Constitution Hill. This move has contributed enormously to our visibility.

And most recently we were honoured and moved to have been selected by the Mail & Guardian to be awarded the 2011 Drivers of Change Dr Ivan May Memorial Award. The judges said ProBono.Org was chosen “not only because it gives a voice to the poor and helps them realise their rights, but also for the role it has already played in transforming society as a whole and the potential it has to carry on doing so.” These were the core ideals Ivan May espoused.

We will sorely miss Ivan May and his ability to see opportunities in every situation, his unfaltering energy and his capacity to connect people and causes in the most enthusiastic and strategic way.

# FINANCIALS 2009 2010

## STATEMENT OF FINANCIAL POSITION AS AT 30 SEPTEMBER 2010

**PRO BONO ORGANISATION**  
(ASSOCIATION INCORPORATED  
UNDER SECTION 21)  
REGISTRATION NO.  
2007/002099/08

	2010 R	2009 R
<b>ASSETS</b>	<b>4 026 530</b>	<b>2 525 660</b>
<b>Non current assets</b>	<b>334 327</b>	<b>7</b>
Equipment	334 327	7
<b>Current assets</b>	<b>3 692 203</b>	<b>2 525 653</b>
Accounts receivable	37 440	-
Cash and cash equivalents	3 654 763	2 525 653
<b>Total assets</b>	<b>4 026 530</b>	<b>2 525 660</b>
<b>RESERVES AND LIABILITIES</b>	<b>4 026 530</b>	<b>2 525 660</b>
<b>Reserves</b>	<b>2 330 504</b>	<b>2 318 136</b>
Accumulated surplus	1 996 177	2 318 136
Equipment fund	334 327	-
<b>Current liabilities</b>	<b>1 696 026</b>	<b>207 524</b>
Accounts payable	69 037	207 524
Deferred income	1 550 767	-
Provision for leave pay	76 222	-
<b>Total reserves and liabilities</b>	<b>4 026 530</b>	<b>2 525 660</b>

# STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 SEPTEMBER 2010

## PRO BONO ORGANISATION

(ASSOCIATION INCORPORATED  
UNDER SECTION 21)  
REGISTRATION NO.  
2007/002099/08

### INCOME

Grants and donations  
Interest received

### EXPENDITURE

Accounting fees  
Advertising and promotions  
Annual report  
Audit fees - prior period  
Bank charges  
Computer expenses  
Courier and postage  
Depreciation  
Equipment hire and maintenance  
Insurance  
Interest expense  
Office renovations  
Office supplies  
Printing and stationery  
Rent, parking, water and electricity  
Repairs and maintenance  
Salaries, wages and contributions  
Seminars and workshops  
Staff recruitment  
Telephone  
Travel and accommodation  
Website costs

2010

R

**2 808 212**

2 670 345

137 867

**3 059 716**

11 800

92 765

52 941

6 783

5 141

21 060

10 365

-

45 771

28 633

-

29 694

29 960

225 722

3 873

2 251 230

57 329

6 719

133 241

26 176

20 513

2009

R

**2 900 350**

2 780 117

120 233

**2 256 801**

19 800

34 508

81 072

5 985

3 558

6 228

11 271

39 080

-

22 993

2 340

250 484

13 731

48 323

89 171

199

1 527 903

2 959

7 649

69 586

19 961

-

Note 1

### Note 1

Prior year adjustment relates to office renovations expended in the previous financial year, which have now been reallocated to the equipment fund as leasehold improvements

**(DEFICIT)/SURPLUS FOR THE YEAR**

**BALANCE AT BEGINNING OF YEAR**

**PRIOR YEAR ADJUSTMENT**

**TRANSFER TO EQUIPMENT FUND**

**BALANCE AT END OF YEAR**

**-251 504**

**2 318 136**

**250 484**

**-320 939**

**1 996 177**

**643 549**

**1 674 587**

**-**

**-**

**2 318 136**

Note 1

# GRANTS AND DONATIONS FOR THE YEAR ENDED 30 SEPTEMBER 2010

**PRO BONO ORGANISATION**  
(ASSOCIATION INCORPORATED  
UNDER SECTION 21)  
REGISTRATION NO.  
2007/002099/08

## GRANTS AND DONATIONS

	2010 R	2009 R
Andrew Roberts Memorial Fund	209 000	209 000
Anglo American Chairman's Fund	80 000	75 000
Bell Dewar & Hall	50 000	-
Bowman Gilfillan Attorneys	50 000	50 000
Claude Harris Leon Foundation	150 000	-
Cliffe Dekker Hofmeyr Inc	50 000	50 000
Deneys Reitz	50 000	50 000
Dewey LeBoeuf	-	9 439
Foundation for Human Rights	53 282	-
Hagart Trust	100 000	-
Johannesburg Bar Council	50 000	50 000
Johannesburg Legal Centre	-	6 487
L Wilson Trust	76 026	-
Legal Wise	-	25 000
Open Society Foundation	65 900	-
<i>Received</i>	<i>116 667</i>	-
<i>Deferred to 2011</i>	<i>(50 767)</i>	-
Routledge Modise t/a Eversheds	50 000	50 000
The Atlantic Philanthropies	1 506 137	1 905 191
<i>Received</i>	<i>3 006 137</i>	<i>1 905 191</i>
<i>Deferred to 2011</i>	<i>(1 500 000)</i>	-
UNHCR	-	200 000
Wartenweiler	30 000	-
Webber Wentzel	50 000	50 000
Werkmans Attorneys	50 000	50 000
	<u>2 670 345</u>	<u>2 780 117</u>

# FINANCIALS 2010 2011

## STATEMENT OF FINANCIAL POSITION AS AT 30 SEPTEMBER 2011

**PRO BONO ORGANISATION**  
(ASSOCIATION INCORPORATED  
UNDER SECTION 21)  
REGISTRATION NO.  
2007/002099/08

	2011 R	2010 R
<b>ASSETS</b>	<b>4 026 530</b>	<b>4 026 530</b>
<b>Non current assets</b>	<b>334 327</b>	<b>334 327</b>
Equipment	271 879	334 327
<b>Current assets</b>	<b>3 692 203</b>	<b>3 692 203</b>
Accounts receivable	60 915	37 440
Cash and cash equivalents	3 294 503	3 654 763
<b>Total assets</b>	<b>4 026 530</b>	<b>4 026 530</b>
<b>RESERVES AND LIABILITIES</b>	<b>4 026 530</b>	<b>4 026 530</b>
<b>Reserves</b>	<b>2 330 504</b>	<b>2 330 504</b>
Accumulated surplus	1 904 911	1 996 177
Equipment fund	271 879	334 327
<b>Current liabilities</b>	<b>1 696 026</b>	<b>1 696 026</b>
Accounts payable	112 192	69 037
Deferred income	1 190 000	1 550 767
Provision for leave pay	148 315	76 222
<b>Total reserves and liabilities</b>	<b>4 026 530</b>	<b>4 026 530</b>



# STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 SEPTEMBER 2011

**PRO BONO ORGANISATION**  
(ASSOCIATION INCORPORATED  
UNDER SECTION 21)  
REGISTRATION NO.  
2007/002099/08

	2011 R	2010 R
<b>INCOME</b>	<b>4 391 414</b>	<b>2 808 212</b>
Grants and donations	4 258 098	2 670 345
Interest received	133 316	137 867
<b>EXPENDITURE</b>	<b>4 389 037</b>	<b>3 059 716</b>
Accounting fees	41 850	11 800
Advertising and promotions	51 925	92 765
Annual report	-	52 941
Audit fees	18 268	6 783
Bank charges	9 334	5 141
Computer expenses	23 581	21 060
Conference registration	3 204	-
Consulting fees	47 211	-
Courier and postage	23 512	10 365
Equipment hire and maintenance	64 608	45 771
Insurance	19 869	28 633
Office supplies	55 776	29 694
Printing and stationery	77 233	29 960
Rent, parking, water and electricity	398 724	225 722
Repairs and maintenance	14 511	3 873
Salaries, wages and contributions	3 027 823	2 251 230
Seminars and workshops	74 502	57 329
Staff recruitment	107 970	6 719
Staff training	12 220	-
Telephone	148 027	133 241
Travel and accommodation	155 863	26 176
Website costs	13 026	20 513
<b>(DEFICIT)/SURPLUS FOR THE YEAR</b>	<b>2 377</b>	<b>(251 504)</b>
<b>BALANCE AT BEGINNING OF YEAR</b>	<b>1 996 177</b>	<b>2 318 136</b>
<b>PRIOR YEAR ADJUSTMENT</b>	<b>- 0</b>	<b>250 484</b>
<b>TRANSFER TO EQUIPMENT FUND</b>	<b>(93 643)</b>	<b>(320 939)</b>
<b>BALANCE AT END OF YEAR</b>	<b>1 904 911</b>	<b>1 996 177</b>

# GRANTS AND DONATIONS FOR THE YEAR ENDED 30 SEPTEMBER 2011

**PRO BONO ORGANISATION**  
(ASSOCIATION INCORPORATED  
UNDER SECTION 21)  
REGISTRATION NO.  
2007/002099/08

## GRANTS AND DONATIONS

	2011 R	2010 R
Andrew Roberts Memorial Fund	-	209 000
Anglo American Chairman's Fund	-	80 000
Belgian Co-operation	61 502	-
Bell Dewar & Hall	50 000	50 000
Bowman Gilfillan Attorneys	50 000	50 000
Claude Harris Leon Foundation	150 000	150 000
Cliffe Dekker Hofmeyr Inc	75 000	50 000
Deneys Reitz	75 000	50 000
E Bellairs Trust	30 000	-
Eversheds	75 000	-
Foundation for Human Rights	109 866	53 282
Hagart Trust	-	100 000
H C I Foundation	75 000	-
Johannesburg Bar Council	50 000	50 000
L Wilson Trust	-	76 026
Open Society Foundation	434 102	65 900
<i>Received</i>	<b>383 335</b>	<b>116 667</b>
<i>Deferred to 2011</i>	<b>50 767</b>	(50 767)
Raith Foundation	315 000	-
Routledge Modise t/a Eversheds	-	50 000
SASLAW	<b>21 000</b>	-
The Atlantic Philanthropies	2 540 000	1 506 137
<i>Received</i>	<b>2 230 000</b>	<b>3 006 137</b>
<i>Deferred to 2011</i>	<b>1 500 000</b>	<b>(1 500 000)</b>
<i>Deferred to 2012</i>	<b>(1 190 000)</b>	-
The South African Institute	20 360	-
Wartenweiler	-	30 000
Webber Wentzel	50 000	50 000
Werkmans Attorneys	75 000	50 000
Sundry donors	1 268	-
	<b>4 258 098</b>	<b>2 670 345</b>





1st Floor West Wing, Constitution Hill, 1 Kotze Street, Braamfontein 2017  
PO Box 4193 Johannesburg 2000

**telephone:** 011 339 6080 **fax:** 011 339 6077

[www.probono-org.org](http://www.probono-org.org)

