

Half of Vodacom payout must go into trust

By [Asha Speckman](#)

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Vodacom must pay half the money it will give to Please Call Me inventor Nkosana Makate into a trust account pending the outcome of arbitration, the High Court in Pretoria ruled on Tuesday, 14 June.



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Discussions between the cellular giant and Makate over remuneration for his idea are continuing and an amount has not yet been agreed on. A date has to be determined for arbitration amid a dispute over the sharing of the Vodacom payout.

In May, Christiaan Schoeman and a company, Raining Men Trade, approached Vodacom, wanting it to set aside half the payout. They turned to the high court in June to prevent the money from being paid into the account of Umika Gopichund attorneys, whom Makate had nominated to hold the Vodacom payout.

Schoeman and Raining Men Trade also wanted the right to decide who would represent Makate in discussions with Vodacom. Schoeman and other investors, including his former wife, Wilma, through Raining Men Trade, paid Makate's legal fees in the fight with Vodacom.

Schoeman said on Tuesday outside court that he and other funders paid R2.9m towards Makate's bill. "We're seeking to recoup our share of the profits."

Makate in his affidavit denies signing an agreement with Raining Men and that he would share half of the payout, implying the funders were demanding more than 50% of the payout. He said he had signed a contract with a company called Black Rock.

However, he said he cancelled the funding arrangement and claimed Schoeman fully accepted this cancellation. Makate had developed "serious concerns" about the identity of his funders, and their ability to pay the legal costs and indemnify him in the event of an adverse costs order.

Pretoria High Court Judge Neil Tuchten on Tuesday ordered that "50% of any payment" made to Makate by Vodacom be held in the Umika Gopichund Attorneys trust account. He also ruled that Makate held the right to elect his representative in talks with Vodacom.

Nazeer Cassim, senior counsel for Schoeman and Raining Men Trade, had argued in court that the Gopichund law firm was established in May "and it would appear that UG Attorneys is a special purpose vehicle created at the instance of Makate to hold the funds in trust".

Gilbert Marcus, senior counsel for Makate, argued that Schoeman's application had been "absolutely stillborn at its inception" and attempted to vary the Constitutional Court order.

In April the apex court ruled that Vodacom must negotiate with Makate within 30 days and pay him for using the Please Call Me idea, which allows cellphone users without airtime to send an SMS requesting a call back from another user.

Source: Business Day

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