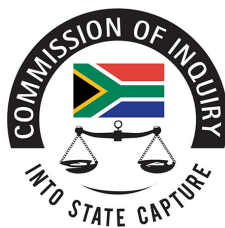


EXHIBIT DD 15

AFFIDAVIT & ANNEXURE

OF

**MATHULWANE EMILY
MPSHE**



**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

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**IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

AFFIDAVIT

I, the undersigned,

MATHULWANE EMILY MPSHE

do hereby make the following statements under oath:

1. I am the Acting General Manager: Human Capital (HR) at South African Express Airways, Kempton Park, Johannesburg.
2. The facts to which I depose are true and correct and are within my personal knowledge except where it is apparent from the context that they are not.
3. I have been requested by the Commission of Inquiry Into State Capture, Corruption and Fraud in the public sector, including organs of state, to assist on their investigations. My contribution will relate to my period at the South African Airways SOC limited ("SAA").



Qualifications and employment history with SAA

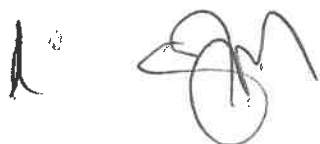
4. My qualifications are as follows:

- Post Graduate Diploma in Business Management, Warwick UK;
- BComm Unisa,
- Associate Banking Diploma Institute of Bankers of South Africa,
- Licentiate Banking Diploma Institute of Bankers of South Africa.

5. I have extensive experience in leading and transforming human capital as a general manager, executive and executive director. This experience spans over 18 years in large global organisations across industries including and not limited to banking, retail and airline.

6. I am a Professional Consciousness Coach, supporting individuals and executives by co-creating achievement of goals through self-discovery thus empowering them to be the grandest versions of themselves.

7. I am a non-executive director for Reimagine SA and Field Band Foundation, which are both Non Profit Companies (NPCs).



8. I served as a council member of the University of Zululand for seven years and Chairperson of the Board for Kids Haven, a home for street children in Benoni, for seven years. I was a member of the South African delegation on the Trust Reflect and Tell (TRT) experience in Hamburg and remained a member and President elect before TRT's dissolution. The main objective of TRT was to advocate for peace and reconciliation.

9. I was employed at SAA from September 2010 to March 2018 as the General Manager: Human Resource (GM-HR). I was then requested to be Acting Chief Executive Officer (ACEO) from July 2015 to 13 November 2015, before returning to my HR position at SAA.

My appointment as Acting CEO in mid-2015

10. Around the end of July 2015, I was appointed to act in the Chief Executive Officer (CEO) position, following the return of Mr Nico Bezuidenhout to Mango Airlines (Mango), a subsidiary of SAA. Nico was the CEO of Mango at the time, but was appointed Acting CEO for SAA by Ms Dudu Myeni. A meeting had been called by Mr Tony Dixon, a member of the SAA board of directors (Board). The meeting was with the SAA Executive Committee (EXCO).

11. Mr Bezuidenhout was not at this meeting, but Mr Dixon informed us that he had met with Mr Bezuidenhout and he then informed us that the Chairperson of the Board, Ms Dudu Myeni (The Chair) had requested that Mr Bezuidenhout return to his role as the CEO of Mango, and that I be appointed as the acting CEO.

  ³

12. I was taken aback by what Mr. Dixon had said. This was due to the fact that the board had decided to take Mr Bezuidenhout out of the position as the acting CEO, and also that they thought to approach me to be the acting CEO, and that they did not even discuss it with me before this meeting.

13. At first I refused, but upon persuasion by my colleagues and discussions with family, I decided to accept the offer.

14. I acted in this position until 13 November 2015 before being instructed to return to my permanent position of General Manager, HR. This was following the appointment of Mr Musa Zwane as the Acting CEO. Officially, when I was sent back, I was informed that the ACEO's post would become and be dealt with on a "rotational" basis to allow transfer of skills to other SAA personnel (**Annexure TM1**). In my opinion, this was merely a way to remove me from the post, because Mr Musa Zwane acted from 14 November 2015, to October 2017. There was no further rotation in that period, till the current CEO, Mr Vuyani Jarana, was appointed on 1 November 2017.

Chairperson's interference in the daily operations

15. In my personal experiences of the Chairperson's interferences, I first dealt with such interference around 2015. The Chair (Ms Myeni) issued an instruction that certain persons should be appointed in certain positions, and disciplinary action needed to be taken against some executives of SAA. These instructions were over time. Some of the instructions were verbal and others were written, such as in emails.



Instruction to appoint Captain Mpho Mamashela into the position of Chief Operations Officer

16. During March 2015, SAA had started the process to implement section 189 of the Labour Relations Act (LRA), Act 66 of 1995 (Section 189 deals with the retrenchment process). SAA had to reduce the head count. Consultations with the unions had been initiated.

17. During these processes, the Chair issued another instruction that Captain Mpho Mamashela be appointed in the position of the Chief Operations Officer. This position was not provided for in the new approved SAA organisational structure. The Chair mentioned that Mr Bezuidenhout met with Captain Mamashela in Mauritius and Mr Bezuidenhout allegedly informed the Chairperson that Captain Mamashela would be suited to the COO position. When I had a discussion with Mr Bezuidenhout in this regard, he denied that this was the case. He said they had social discussions in Mauritius over drinks after hours, and no commitments were made to take the matter further.

18. Due to the fact that I considered the instruction unlawful in terms of policies and procedures, I refused to make this appointment and asked the Chair to first amend and approve the organisational structure and issue the said instruction in writing. Captain Mamashela was ultimately not appointed and the structure was not amended.

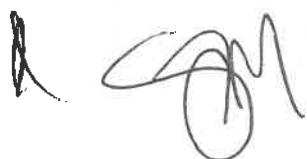
Instruction to appoint Captain Eric Manentsa into the position of Head of Flight Operations

19. A further example of this is when an instruction was issued by the Chair, that Captain Eric Manentsa should be appointed in the position of the Head of Flight Operations. The subject of the appointment was introduced by Ms. Yakhe Kwinana (Ms Kwinana), a board member and Chair of the Audit and Risk Committee (ARC). This matter was discussed in various Remuneration Committee (Remco) meetings. Ms. Kwinana stated that Captain Manentsa had complained that his rôle as Chief Pilot (CP) was ceremonial, and he needed to be appointed into the Head of Flight Operations role.

20. Present at this meeting were the Company Secretary, Ruth Kibuuka, the HoD Employee Relations, Mr Lourens Erasmus, the Deputy Company Secretary Ms Mabana Makhake, Ms Kwinana, Ms Myeni and Dr. Tambi (also a board member and chair of Remco).

21. This matter was raised by Ms Kwinana following a discussion she had with Captain Manentsa whilst they were seated together on a flight to East London. This was not a formal complaint as it did not follow protocol and due process. Secondly, this was an operational matter, where Ms Kwinana raised it without the proper mandate, and outside of the realm of non-executive board member's functions.

22. I was concerned that transparency, policy and procedure would be flouted in the manner Ms Kwinana addressed the issue. At the Remco meeting held on 9 July 2015 and on the 18th of August 2015 I then advised that the appointment of Captain Manentsa into the position of Head of Flight Ops needed to follow due processes



(Annexure "TM2"). I advised that combining the positions of Chief Pilot and Head of Flight Operations was an anomaly.

23. The roles of Chief Pilot and of Head of Flight Operations had originally been advertised and Captain Manentsa was appointed as Chief Pilot through due processes. Captain Sandy Bayne was appointed as Head of Flight Operations, also after following due processes.
24. Despite the above being explained, which was also supported by a submission to the Remco Chair. Ms Myeni said they stood by their decision to appoint Captain Manentsa as the Chief Pilot and Head of Flight Operations.
25. The Chair interjected and made it a racial issue, indicating that there was resistance to appoint Captain Manentsa in that position because he is black. Historically, the roles were separated and the company has reverted to the old structure. Furthermore, the separation of the roles is a requirement of SACAA and Best Practice in the aviation industry.
26. I then attempted a different angle to try explain and referenced more specifically the policy I was referring to. I informed the Chair that according to the flight operations manual, aligned to the Civil Aviation Authority (CAA) requirements, the role of Chief Pilot and that of Head of Flight Operations needed to be kept separate (Annexure TM3).
27. The Chair responded by saying "***I don't care what you say, you will combine the roles***". On this instruction I then initiated a request to CAA and the Department of



transport, informing them of the board's instruction to combine the two roles (DoT Annexure "TM4").

28. This was actually an operational matter falling within the ambit of the CEO and the GM: Operations. After the roles were combined, Captain Manentsa was then appointed in the position of Acting Head of Flight Ops, whilst still holding the position as CP. No due processes were followed as it was an instruction from the board. As time went on Captain Manentsa was allegedly not coping with the combined roles. He allegedly stated that he never said he had wanted the combined position of CP and Acting Head: Flight Ops, and he tendered his resignation for the post of Acting Head of Flight Ops. He remained in his position as CP at that stage, and has since also resigned as CP.

Instruction to appoint Mr. Kendy Phohleli

29. Mr. Kendy Phohleli (Mr. Phohleli), was appointed during October 2013 as Interim GM: Commercial to SAA on a short-term contract to assist Mr. Monwabisi Kalawe, whose position was CEO at the time. Then Mr Sylvain Bosc was permanently appointed in the position as GM: Commercial, and Mr Phohleli's contract ended as Interim GM Commercial. He was then appointed on a fixed term contract, to work on Special Projects in Africa, under the GM: Commercial's Department.

30. It appeared Mr. Phohleli was very close to the Chair. Part of the reasons for stating this is due to his contract often being extended so often. His contract ended and was renewed on a further six (6) occasions (submission Annexure "TM5"). His position for Africa expansion was also not included in the new organisational structure, as it was a

special project. This meant that it would have been creating an expectation of continuous employment. It was at this point that the Chair got upset and issued an instruction that Mr. Phohleli be appointed in the Commercial Division. The GM: Commercial, Mr Bosc, declined to appoint Mr Phohleli, as there was no vacancy and the position was not in the approved structure.

31. Ms Nivy Moodley, from SAA: Human Resources (HR), wrote a letter of termination of contract to Mr. Phohleli. In the letter, he was encouraged to apply for permanent posts that were being advertised. I know there were posts he applied for, as he had emailed me, but he was not successful as he indicated in his email. The copy the email is attached hereto as **(Annexure TM6)**.
32. On 28 and 29 September 2015, the Chair scheduled a board and Executive Committee (Exco) meeting, which was held at the Intercontinental hotel at OR Tambo International Airport (ORTIA), Johannesburg. During the meeting, my colleague, Ms Moodley, was instructed to write a letter of appointment to Mr. Phohleli for the position of Manager, in the Office of the Chairperson. This was transformed into an alleged Board resolution according to an email from the Company Secretary **(Annexure TM7)**, to appoint Mr Phohleli. The Board resolution, was later queried and challenged as invalid, **(Annexure TM8 & TM9)** since it did not satisfy all the requirements for a valid board meeting.
33. Then, during October 2015, the Chair established a committee for Africa strategy. She appointed Mr. Phohleli to be a member of this committee, even though he was no longer an employee of SAA and he was not remunerated in any way. He should not have been part of the committee, as it was for SAA employees and was highly



irregular. Amongst members of the committee I recall Captain Mamashela, Captain Manentsa and Tebogo Tsimane, amongst others. There were no formal appointments to the Committee.

Cancellation of LSG Sky Chefs' contract

34. The history where this contract emanated, was due to various reasons. In short, there had been an upgrade to the premium domestic and international lounges at ORTIA, which was done to lure premium clientele, but the lounge had previously been serviced on contract with Airchefs, a subsidiary of SAA. Airchefs had not been providing a high standard of service, and there were numerous complaints by customers. The upgrade of the lounge had been approached in partnership with a private company, namely Investec. Investec thus also expected value for their money, and a high level of quality and service, as a value add to their premium clients. As a result, a new tender was formulated inviting all relevant catering companies to tender for the lounge's services, in which Airchefs also tendered.

35. During August 2015, LSG Sky Chefs were the most responsive bidder to be awarded a catering contract after following the due procurement processes. The due processes also would have included LSG Sky chefs BBBEE status in the form of a certificate. The amount was for an estimated R85 818 793.66, for a 3-year period. Purely out of courtesy, and not any form of policy or instruction followed, I wrote a submission to the Board and Chair on 20 August 2015, informing her to note the history, background of events leading up to the procurement, evaluation and eventual award of contract (**Annexure TM10**). I did not receive any response from the Chair, or the board. Due



processes continued, and LSG Sky chefs were given a Letter of Award on 21 August 2015.

36. On 1 September 2015, the day before we were due to present to Parliament, the chair emailed me, informing me to hold the award of the LSG Sky chefs contract. This had already been awarded. I cannot say I saw this email on 1 September 2015, as I did not respond to it. On 2 September, I was with the Chair, as were various SAA board and management of SAA. We were presenting SAA's strategy to Parliament. The Chair then had to answer Parliament's questions about the same appointment of LSG Sky Chefs. She was not prepared for questioning, and the members of parliament questioned her in such a way, that she could not provide answers. We as SAA management tried to respond where we could (**Annexure TM11**).
37. After the Parliamentary session was complete, the Chair appeared very angry regarding this matter. Whilst we were awaiting transport outside Parliament, she questioned me. She questioned why Airchefs were not awarded, saying, "**Are you telling me Black people cannot cook?**"
38. I then received the email on 3 September 2015 from the chair, when I returned to the office. I responded to the chair, informing her that the tender, which had been initiated in 2014, had followed due processes, and legitimately been awarded. I asked whether she required a further submission to be made available, highlighting the legal, reputational and business continuity risks presented by the suggested holding and/or possible cancellation of the award.



39. She then emailed me back, now with input from Ms Kwinana also querying me, and accusing me of treason! On the email, dated 9 September 2015, Ms Myeni requested the detailed processes in the tender, the decision process for award, and also included why Air Chefs was disqualified (**Annexure TM12**).

40. I then received an email from the chair, dated 9 September 2015, where she stated "The Board does not want to interfere with due process which belongs and is better managed by the executive". In the same email where she indicates to follow due processes, she proceeds to interfere with due processes as can be seen from the email contents (**Annexure TM 13**). I followed up her email with correspondence and a legal opinion, which was obtained together with input from the CPO. It appeared all was legal and had followed due processes, and was within my delegation of authority, which is what I tried to explain. I further advised the Chair about the risks of cancelling this contract, as advised by the legal opinion from Ms Ursula Fikelepi, which was attached to my email (**Annexure TM14**), of the SAA Legal department. By the mere fact that I queried the Chair's instruction, the Chair was upset. She arranged a board resolution (**Annexure TM15**), at the same meeting of 28 and 29 September 2015, where the LSG Sky chefs contract was cancelled, and awarded to Airchefs, who had not even made the shortlist. This was subsequently executed.

41. In her anger over me mentioning that the award was within my Delegation of Authority (DOA), and as a result, she also reduced my delegation of authority for approvals and that of EXCO members, by half. This was also through a board resolution on 28 September 2015. This is contained in the email (**Annexure TM16**), and was also queried by email by some of the EXCO members (**Annexure TM17**).



42. Air Chefs is a fully owned subsidiary of SAA. Airchefs was thus reinstated at the OTRIA lounges when they opened. The quality of services and food did not improve. Within days of opening, we received feedback of compliments on the décor, but complaints about the quality of the food (**Annexure TM18**).

Ad-hoc forensic investigations and forensic investigations for ulterior purposes

43. The use of forensic investigations and their appointment appeared to be utilised, in some instances, as a tool in attempts to discredit and possibly bring disciplinary action against some SAA employees.

44. There were various forensic investigations that were initiated around these times. The sources of the forensic investigations were more frequent via the SAA board. The appointment of service providers in most of these instances was directly by the board, and it was directly to a specific forensic firm, some of which were not on the SAA's appointed panel. The reasons for forensic investigations included sources such as whistle blower reports, or reasons the board put forth. In some instances, it appears some of the matters to be investigated were also "cross cutting" in the sense of some of the issues being investigated, or persons being investigated in more than one of the forensic investigations. To my knowledge, the following companies were appointed to conduct forensic investigations on SAA executives:

ENS



45. I deal with the ENS investigations I'm aware of below;

45.1 The first entailed an investigation regarding Mr Nico Bezuidenhout (Mr. Bezuidenhout), who was the Acting CEO at SAA before me, on allegations that he was favouring Mango on certain contracts with SAA, at the expense of SAA.

45.2 Mr Wolf Meyer (Mr. Meyer), the then CFO, was then investigated regarding a recording device he allegedly had in a meeting.

45.3 Mr Sylvain Bosc (Mr. Bosc), the SAA Chief Commercial Officer was accused through a whistle blower report (this will be elaborated on later).

46. Mr. Bosc was put on disciplinary process and was found not guilty on all counts.

47. According to Mr. Bosc, regardless of the findings of the disciplinary process, Mr Musa Zwane allegedly refused to reinstate Mr Bosc. Mr Zwane apparently said that the Chair did not approve his reinstatement.

48. ENS apparently did several investigations. In the investigation regarding Mr Bosc, there was initially a request to add the investigation as an addendum to another ENS appointment. I refused, as in line with correspondence from Mr Siyakhula Vilakazi: SAA Chief Audit Executive, indicating that not only was the request invalid, but the appointment in whole, of ENS, was invalid (**Annexure TM19**). In Ms Kwinana's email, she alluded to ENS having done seven (7) similar assignments approved by the board (**Annexure TM20**). I further note in Mr Vilakazi's correspondence, he states that ENS was on the legal panel, but not on the forensic investigation panel.

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• **Boqwana Burns**

49. Their appointment for an investigation was regarding Mr Nico Bezuidenhout and Mr Wolf Meyer, which related to the same matter that was investigated by ENS above.

50. In relation to my affidavit in general, and the Boqwana Burns investigation, I have been shown copies of applicable documentation by investigators, some of which, I no longer had record of, or had never seen. In relation to Boqwana Burns.

51. I was emailed a Letter of Engagement (LoE) on 1 September 2015. The LoE was from Boqwana Burns (BB), dated 21 August 2015, which was emailed from Ms Kwinana's secretary. I see the email, dated 28 August 2015, originated from the private email address of Mr Luvo Makasi (the LoE has Luvo Makasi as the author from BB), to Ms Yakhe Kwinana's email address. The LoE, providing for my acceptance signature, and the covering email, are attached as per **Annexure TM21**. I had no previous knowledge of this matter and did not sign this. I was not sure what procurement process was followed.

52. I was then instructed via Ms Kwinana's further email on 1 September 2015 that this was approved by the board and to obtain the board resolution from Ms Kibuuka, the Company Secretary (**Annexure TM22**). I now see from emails, that Ms Kwinana had already emailed the same letter to Ms Kibuuka (**Annexure TM23**). Ms Kwinana had also sent the letter to the board members (**Annexure TM24**).

53. I made enquiries with the Chief Procurement Officer, Dr Dahwa, as well as Mr Siyakhula Vilakazi, Chief Audit Executive and Ms Fikile Thabethe, Head of Legal and Risk, to

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establish whether they were aware of this appointment. They responded indicating that they were not aware that BB had been awarded a contract to conduct a forensic investigation. BB was not on the panel of Forensic Investigation or for Legal matters. I informed Ms Kwinana that BB was not on our SAA approved panel, and advised her to follow the due processes.

54. There was email communication back and forth, up to 30 September 2015. The essence of it was that there did not appear to be any formal process followed to appointment BB. I see in the emails that the Company Secretary refers to a "draft" board resolution attached in an email to me, dated 4 September 2015, but I do not have it. I am suspecting that since Ms Kwinana forwarded the email headed "Draft letter for your consideration", the Company Secretary, she may have forwarded the same letter to me, as I see the subject line is still the same, but with the "FW" (standing for forwarded) prefix. I do not have the "draft" resolution, nor do I think there was ever one.

57. On 7 September 2015, Ms Kwinana and Dr John Tambi (also a board member) were waiting for me at my office. Ms Kwinana led the discussion, where she accused me of not being a team player. She said that I was always "second guessing" the board's decisions by sharing the decisions with other EXCO, and not merely complying with the instructions. They made it clear that my mandate comes from the board and I must comply with the board instructions.

58. I then responded by informing them that I had clear guidelines and a responsibility to adhere to company policies, guidelines, legislation, and even shareholder MoU's. I could not act outside the parameters set for clean governance at SAA.



59. I also, at the same time, queried Ms Kwinana on the appointment of BB that I had received from her. She explained that this appointment was an emergency.
59. As a result, if it was an emergency, a condonement could be approved, which had to follow due processes and be approved by the CEO. This was never brought to me as ACEO for approval, and I would not have approved it anyway.
60. Ms Kwinana responded via email on 8 September 2015 with reference to the meeting the day before. She also indicated that there were further Service providers that had also been irregularly appointed by the SAA board, even including ones she "may not be aware of." I then informed the Company Secretary accordingly.
61. Ms Kwinana then asked me, via email, on 11 September 2015, to obtain a legal opinion on whether the appointment was not a deviation. I received the legal opinions on 30 September 2015, it also advised condonement, as it appeared as if the Service provider had apparently already been engaged. All the emails referred to above are recorded in a trailing email as attached per (**Annexure TM25**). I cannot recall whether the telecom referred to in the emails materialised or not.
62. I have also seen a copy the same LoE, which I had not signed, which is now signed by Ms Kwinana (**Annexure TM26**), and dated 4 September 2015. This is highly irregular, as board members do not play an operational role in SAA activities. There was also at some stage a query whether BB had signed a Non-Disclosure Agreement (NDA) with SAA, which is protocol. They had not, but did sign one thereafter (**Annexure 27**). I see the NDA is also signed by Ms Kwinana, also highly irregular of a board member. (NDA's are supposed to be signed by two SAA officials. I have also perused the board resolution



(Annexure TM28), and have seen that it was apparently resolved on 26 August 2015, to appoint Luvo Makhasi of Boqwana Burns. The resolution states it was authorised for the investigation of the Mango Airlines CEO emanating from the whistle blower report, and the allegations against SAA CFO.

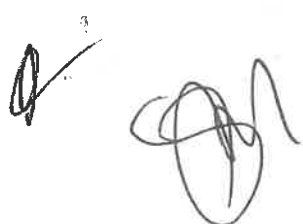
63. I see there was an email query on 12 October 2015, from Mr Nick Linnell, requesting a copy of a resolution appointing "Luvo" assuming this is Mr Makhasi from BB. I see the resolution was sent to him, presuming it being the same resolution discussed above, dated 13 October 2015 (Annexure TM 29).

64. On 7 November 2015, Mr Meyer sent an email to me (Annexure TM30), which was copied to the board, Mr S Vilakazi, the SAA Chief Audit Executive, Dr Dahwa, the SAA CPO, and the Company Secretary. He informed me that BB had approached him, regarding Whistle Blower allegations and secret recordings." He also alluded to the fact, as I had, that there were no proper procurement processes, and no Non-Disclosure Agreement (NDA).

Ernst & Young

65. Around mid-2015, Ernst & Young (EY) conducted investigations which were aimed at Mr Meyer and Mr Bezuidenhout. Through the brief to EY, which came from the board members, EY were given a scope to investigate over spending with Service providers, that the board had approved.

66. These investigations had been implemented through Ms Kwinana as ARC chair. According to feedback we received from Ms Kwinana, the investigation by EY on SAAT

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had indicated that they were very little transgressions in their findings. All she said regarding the SAA financial investigation, was that EY outlined inadequacies in control mechanisms. I requested a copy of the forensic report to implement any corrective measures, but I have still, to date, never seen any of these reports.

Whistle blower reports

67. Whilst being on suspension in 2016, I received a call from an organisation known as Organisation Undoing Tax Abuse (OUTA). They informed me that Ms. Kwinana had approached OUTA, to confess that she and Ms. Myeni had on several occasions gone to the internet café in Blue Valley, situated close to Ms. Kwinana's residence in Midrand, to make informant submissions regarding the SAA's whistle blowing service. I have been shown a transcript of the interview with Ms Kwinana and OUTA personnel as per **Annexure TM31**. In summary, this is in line with what I was told. Mr Wayne Duvenhage, from OUTA will have full details.

68. I have also reviewed the source documents for the whistle blower report dated 4 September 2015, and associated emails for the Mr Bosc matter (**Annexure TM32**). I am of the opinion that this matter originated from Ms Kwinana. The reason for my opinion is that Ms Kwinana alludes to this report being as a result of a "walk in" complaint. I fail to see how anybody can "walk in" to SAA. If it was from an SAA employee, they would have been aware of the channels available and the anonymous call centre number available for complaints. Ms Kwinana, as a board member, should not have dealt with this alleged complaint.



69. It is also my opinion that Ms Myeni and Ms Kwinana were utilising the whistle blower forum as a tool to try dismiss SAA employees they disliked, or employees that were against their instructions on what they wanted to achieve at SAA. Alternately, they would use the means to implement an investigation against an employee, so as to divert their attention on work matters, in order to achieve their objectives within SAA.

State Security Agency matters with SAA

70. In February 2015, Mr Bosc, as GM Commercial, had visited Dakar, Senegal for official work. It is alleged that he approached Senegalese government officials without following protocol, which he relayed had been a misunderstanding and misconception, based on prior engagements by the then SAA CEO, Mr Monwabisi Kalawe. The matter was dealt with internally, and with the Shareholder, and relevant role players, including the Department of International Relations and Cooperation (DIRCO).

71. The matter has previously been dealt with by then ACEO Mr Bezuidenhout. I am not aware of any prior interaction with the SSA.

72. Following the whistle blower report above, made on Mr Bosc, one of the allegations of the above mentioned report, at paragraph 2, states: *"Sylvain Bosch failed to disclose his relationship with General Sales Agency (GSA) that is operating in West Africa (Dakar) as this contract was awarded and affected local 24 Senegalese employees of SAA who are now without jobs. Their jobs ended on 29 April 2015. He hired a GSA which replaced these employees. He is a current shareholder of this GSA."*

Two handwritten signatures in black ink. The first is a simple, stylized signature. The second is a more complex, cursive signature.

73. Out of the blue, I then received a call from Mr Vincent Mnguni from the State Security Agency (SSA). He informed me that they were conducting an investigation into the closure of the Dakar route, in Senegal. I then requested him to put any request through official channels and in writing.
74. I have seen an email that was forwarded to Mr Mnguni on 14 October 2015 (**Annexure TM33**) from SAA's Mr Matome Ramokgobedi, Manager: Network Planning: Commercial. The information forwarded to Mr Mnguni is confidential information. It is relating to the SAA route to Abu Dhabi. I cannot see a reason why this was done and cannot comment further, but to say that it also entails correspondence with Mr Bosc and Mr Barry Parsons. It appears that due protocol processes for the release of information to third parties was not followed. Mr. Mokgobedi was a Junior Manager at SAA Commercial department. He should not have corresponded with SSA directly.
75. Later, as a result of the request in writing from SSA, I obtained a letter dated 22 October 2015 signed by MV Dlodlo, for the Director General (DG) of SSA (**Annexure TM34**) stated that they had an investigation opened regarding the allegations of fraud or corruption against SAA officials. They requested investigation reports on allegations against SAA officials, including Mr Sylvain Bosc, and the Senegal Manager Mr Claude Sabre.
76. As a result, I requested SAA legal department to assist in a response through Mr Leon Action. The response was formulated, which I signed and it was dispatched (**Annexure TM35**). In essence, the response included that there was an internal investigation done and due processes in any recommendations would be followed. And due to it being an SAA matter, being addressed, if there were any further requirements, then contact SAA

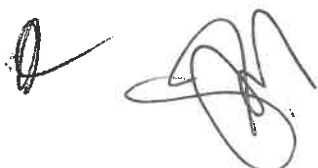


legal. It was also suggested to SSA that the requirements were regards allegations against SAA officials, but that the SAA investigation did not have any bearing on Mr Bosc.

77. I have perused the trail of emails (**Annexure TM36**). I know that SSA were still not satisfied with the response they received. In addressing the matter, I also guided the response by suggesting and delegating that a response be sent to SSA to follow due protocol. SSA would make a request to the Department of International Relations and Cooperation (DIRCO), who would then forward the request to out shareholder, the Minister of finance and proper channels would be followed. This is entrenched in the emails.

78. As a result, Mr Lourens Erasmus, Head: Employee Relations, was tasked in formulating the response. I signed the response after being drafted, and it was then dispatched on 9 December 2015 by email (**Annexure TM37**).

79. I have seen an email to the chair dated 14 January 2016 (**Annexure TM38**), from Mr Funokwakhe Madlala of the SSA, indicating that they had not received any response since the letter dated 12 November 2015. Ms Myeni then requested a copy of the report on 17 January 2016. Firstly, this was not true, as can be seen from the email above, it was emailed on 9 December 2015, so there was further correspondence after 12 November 2015. Secondly, SSA still did not follow the suggested protocol as suggested in the correspondence. They had no right to now approach the board on an operational matter, needless to say, the chair was also supposed to have emailed them back to indicate as such. I do not know what transpired, as I went back to my role in HR.



80. This was one of the allegations of misconduct levelled against me, that I had brought SAA into disrepute by failing to provide SSA with their requested information. The notice of the alleged misconduct was served on 19 January 2015.
81. Whilst still dealing with this query, there was another email and instruction from the chair on 21 October 2015, requesting Executives and support staff to comply with being vetted by SSA (**Annexure TM39**). In her letter, she informs that she had a letter from the Minister of State Security, Mr David Mahlobo. I have been shown this letter, dated 13 October 2015, stamped by the Minister of Finance's office on 15 October 2015 (**Annexure TM40**).
82. I forwarded the email with the instruction to request that each GM and subsidiary CEO's to comply with the request. The vetting was suggested for management only (to level 2). I myself was not comfortable with what was going on. There was a clear interference from SSA regarding the Dakar matter and the inclusion of Mr Bosc somehow. I see there may possibly been some information leaked to SSA by SAA staff, and in hind sight, now I see there may be collusion to use SSA to oust identified SAA staff including Mr Bosc.
83. I was also not comfortable at the time, as there had been a "high level threat" to my safety that I was made aware of around the same time by the SAA security department. Now SSA wanted all our personal details and I did not feel safe in providing all this information. I did not know what the reason for security vetting was. This was a general query from SSA staff. Many SAA staff had been there for years and never been requested to be vetted. It was also not a prerequisite when applying for posts, or in their letter of appointment. I did not fill out the forms myself for these reasons.
84. I also recall that we were requested to attend a presentation by SSA in the SAA auditorium, with SSA, which I attended. In their presentation, I used the example of the



case above, requesting everything in writing and following protocol. The SSA staff informed us this was a perfect example and responded to appropriately.

85. I am not sure if it was coincidence, but this was the same day that I was called to collect my suspension notice on 19 January 2016. One of the allegations levelled against me was that I had failed to provide information to SSA officials.

Disciplinary Matters of Executive Members of SAA

86. In a meeting, where I cannot recall the date, the Chair surprisingly showered praises on me and then asked me to discipline Mr Wolf Meyer, the Chief Financial Officer (CFO), based on the above mentioned ENS's report findings, and the legal opinion which recommended that Mr Meyer be disciplined. The Chair alleged there had been a breakdown in trust after Mr Meyer was allegedly was found with a recording device pen in one of the meetings with board members. I requested the Chair for both the ENS report, and the legal opinion. Her instruction had been in writing, and my response had been by email (**Annexure TM41**). I attempted to obtain the investigation report and legal opinion to initiate the request, but to no avail, as can be seen in my email dated 9 November 2015.

87. I later received a telephone call from Mr. Nick Linnell, who was the private legal advisor to the chair. He queried me and instructed me to discipline Mr. Meyer. He chastised me, telling me I was incompetent and that I did not know what I was doing. He stated that I could not differentiate the roles between "*that of the CEO from that of a board.*" I had not received the forensic report or legal opinion, as requested, by that time. The call was facilitated by the company secretary's office, as the Chair only trusted her. After a



lengthy call with Mr Linnell, and to my surprise, in my discussions later in the day with the company secretary, she told me how Mr Linnell had said to her "**SAA needs more people like Thuli but, tough luck I work for Dudu**". Ms Ruth Kibuuka will have reference to this statement made to her. This was after my requests for the investigation report, which I had still not received.

30% BBBEE set-aside

88. Around February 2015, in his State of the Nation address, the then President, Mr JG Zuma, had introduced the Black Industrialists Scheme and 30% set aside as a new intervention to promote the participation of black entrepreneurs in manufacturing.
89. There were subsequent transformation drives, in attempts to equip potential suppliers to SAA in the form of presentations, which was rolled out across South Africa. As part of this, SAA also signed a Memorandum of Understanding (MoU) with the Deputy Minister of the Department of Trade and Industry (DTI) on the implementation of the Black Industrialists programme (**Annexure TM42**). This was signed by the chair, but should have been signed by Exco.
90. As Acting CEO in 2015, the Chair asked me to prepare a presentation on transformation for a presentation to Umkhonto weSizwe (MK) Veterans. The presentation at the SAA board room, which was presented by the SAA Transformation Manager, Mr Thapelo Lehasa, and was attended by the Chair, Ms Kwinana, various SAA Exco members, Mr Des van Rooyen, Mr Kebby Maphatsoe, (Deputy Minister: MK Veterans) and two ladies from MK Veterans (whose names I cannot recall). The content of the presentation focused mainly on opportunities in the up and downstream areas of the supply chain that



was aligned to the Black Industrialists programme. It also focused on the requirements to qualify as a service provider for SAA.

91. Immediately after the presentation, the Chair stood up and said ***"just look at her! These people died for us*** (referring to the Mr Kebby Maphatsoe). ***They want to know what the budget for Jet Fuel is, why don't you tell them the budget?"*** I then attempted to appropriately mention to the chair that it was inappropriate to mention the budgets with any Service Providers or potential Service Providers.
92. The Chair then informed the meeting that ***"the budget is R20 billion. What is stopping you from telling them the budget? They are not here to listen to your rules."*** The chair continued, saying ***"she (referring to me) is also in HR, and maybe 30% of the vacancies should also be set aside to the MK veterans' children"***.
93. My colleague Mr Wolf Meyer, who was the CFO, also told me that he was invited to a meeting with Bid Air. He, together with Ms. Kwinana from SAA, were present at the meeting. Ms Kwinana informed the present Bid Air executives that they had to give 30% of their ownership to black people. Bid Air was already a BBBEE company. I have seen the letter of response where Bidair mentions their BBBEE participation (**Annexure TM43**).
94. As a result of the meeting's demands from Ms Kwinana, Dr Anton Alberts, a Minister of Parliament, allegedly wrote a letter to the BBBEE commission to register their concerns. On 8 September 2015, with the Commissioner of the Broad-Based Black Economic Empowerment (B-BBEE) Commission, Ms. Zodwa Ntuli, arranged a meeting with me with regards this SAA matter. In the meeting held, Ms Ntuli spoke about the approach,



policies and guidelines on BBBEE and advised us to also consider how we could influence the Aviation sector code since the BBBEE codes were being reviewed. This meeting was attended by Ms Ntuli, myself, Dr Dahwa, and Lusanda Jiya (GM: Stakeholder). She advised that SAA must stop demanding the 30% set aside from service provider as it is illegal. This resulted in the BBBEE Commission following up with writing a letter addressed to me initially (**Annexure TM44**), with all the salient points mentioned in the meeting. I then emailed and requested that a letter be addressed to the chair of the Board, which was done (**Annexure TM45**), addressing Ms. Kwinana's demands to Bid Air.

95. I then also gave feedback on the meeting and the process to the Chair and her response was "*I don't want to hear anything from that woman* (meaning Ms Ntuli)!" Shortly after that, on 28 September 2015, I received correspondence from National Treasury (**Annexure TM46**) informing me that there was no support to any legal procurement framework for setting aside 30%. The board also received correspondence (**Annexure TM47**) from the Chief Procurement Officer at National Treasury instructing the board to stop continuing with its 30% BBBEE set aside in its current format.

96. The Chair, in turn, delegated Ms. Kwinana to respond to the BBBEE Commission enquiry. Ms. Kwinana wrote a response to both the BBBEE Commissioner, and to National Treasury. Ms. Kwinana responded in a very confrontational manner and asked me to sign the letter, which I rephrased, signed and sent to National Treasury copying the board (**Annexure TM48**). Ultimately, the board ignored all of these instructions and continued with their negotiations with Service providers, and instructions to SAA personnel, to implement the board's instructions and resolutions.

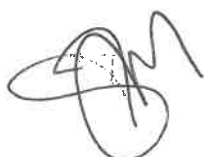
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97. I have perused the BBBEE commissioner's responses and communication between her office and SAA. I confirm this is in line with my explanation above (**Annexure 49**).

98. On Friday 2 October 2015, (**Annexure TM50**), both the Chair and Ms. Kwinana were at SAA. Whilst Ms. Kwinana was there, my personal assistant walked in my office, to tell me that I had to urgently see Dr Dahwa as he did not seem to be well. Dr Dahwa who was almost in tears informed me that he had just had a meeting with the chair and Ms Kwinana, and was almost in tears. Dr Dahwa, a Zimbabwean national, was a procurement expert who had been appointed on a skills transfer contract. He further stated that he had just been humiliated and chastised by both the Chair and Ms. Kwinana. They told him that he was an illegal immigrant, occupying a senior position, a position which he could not even occupy in his own country. They also told him that if he does not sign certain letters of award, they would hand him over to the political party Economic Freedom Fighters (EFF). This was also around the time that there were Xenophobic attacks in South Africa.

99. These certain letters of award were two letters of award which Dr Dahwa was being instructed to sign. These letters of award were for the following:

99.1 A Jet fuel deal to Engen, but with changes to the terms of contract, to give a 30% share to a "yet to be disclosed consortium" acting on behalf of a consortium of about 60 fuel suppliers (I still did not get the name of the consortium before I resigned). In addition, contractually, 30% of the payments due to Engen would be paid by SAA, directly to the consortium's company. The contract would be for 10 years. This was all very irregular in all instances and was highlighted by Dr Dahwa. I also seem to remember that the Engen



contract was midstream, and not expired, where this too would be highly irregular to alter;

99.2 Changes to the terms of the Swissport ground handling tender in such a way that 30% would be payable to a company called Jamicron, for a period of 5 years.

100. In my later discussions with Dr Dahwa, he pointed out that Jamicron was not registered on the supplier database and that as Chief Procurement Officer, he had never heard of the company before being asked to sign this letter of award.

101. Ms Kwinana stated, in an email, that she had already been to the legal department and the legal department was ready to issue the contracts relating to the awards mentioned above. They were merely awaiting the award letters to be signed, as she indicated in her emails (**Annexure TM51**). I then advised Ms Kwinana about the risks involved.

Events leading to, and following my removal as Acting CEO.

102. A board Exco meeting was held on 13 October 2015, SAA executives were invited to attend the meeting. Present at the meeting was Ms Myeni and Ms Kwinana. The chair started talking about how incompetent I was and then asked all other staff members about what they had to say about my incompetence.

103. Mr. Musa Zwane, who was the CEO of SAA Technical (SAAT) at the time, was very vocal, saying he did not understand why board resolutions were not followed. I responded by outlining the policies and procedures SAA had to adhere to, and explained

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that I was not second guessing the board, but just following legal, guided policies and processes.

I was then called to another meeting in Durban by the Chair. We met at Beverly Hills hotel, on Monday 27th October 2015. During this meeting she informed me that the unions were not happy with me regarding the Section 189 retrenchment processes. This was news to me, as all the processes that I had played a role in in respect of Sec 189, had been commended by all parties, even the Commissioner of the CCMA who was facilitating the SAA process.

104. At the meeting, the Chair then enquired from me as to why I had not applied for the post of the CEO, as it had by now been advertised. I informed her that, as I had previously indicated, I was not interested in the post. She encouraged me to apply for the post but I declined.

105. On 13 November 2015, I was contacted by the Company Secretary to inform me that the chair had scheduled a meeting with Labour. At first I queried whether Labour had followed due processes in place to call the meeting. Later the Company Secretary responded informing me that the chair had arranged the meeting, and instructed that I needed to be present. This was scheduled for the dining room on the 6th floor at SAA Airways Park.

106. I was not aware of this meeting, nor was it scheduled, but I went to the meeting, as instructed. When I arrived, I saw that the chair was there, together with various role players from the South African Cabin Crew Association (SACCA), which is the cabin crew union. The meeting was also attended by Ms Kwinana. Realising the role players



attending, I requested that the cabin crew manager, Mr Shaun Pillay, and Ms Yvonne Mkefa from ER, also be invited to address possible issues to be discussed, as they were the direct line managers of cabin crew, who were present at the meeting.

107. I had some reservations concerning the meeting and began to discuss these reservations with the chair. She became very irate, and scolded me, basically saying that this was her meeting and that I must subdue myself. She then chaired the meeting which entailed complaints of various employees, which technically should have been dealt with by the line managers guided by the policies and forums in place. I am of the opinion that this meeting was in order to validate reasons to find fault with me, and therefore relieve me of my position as acting CEO.

108. Later the same day, I was called by the chair and requested to attend a board meeting. This was actually an instruction, even though by now it was after hours. She informed me that the meeting was at the Protea Hotel, Midrand. At the meeting I found Ms Kwinana and Dr Tambi and the Chair was not in attendance. Ms Kwinana informed me that they had been instructed by the chair to inform me that I was to be relieved of my post as acting CEO. They also alluded to the decision to want to rotate the role of the CEO and afford others an opportunity, as mentioned earlier in my statement. They informed me that Mr. Musa Zwane was to succeed me as the ACEO.

Appointment of Ms Phumeza Nhantsi

109. Ms Phumeza Nhantsi was seconded to SAA to serve as an interim CFO after the resignation of Mr Meyer. She was an auditor at the firm Sizwe Ntsaluba Gobodo (SNG)



and irregularly appointed, where she began with SAA on 27 November 2015. She was firstly seconded, and then when the post was advertised, she then applied.

110. I had returned, by that time, back to my original post at HR. Stanton Chase, a well-known recruitment company was appointed to assist in the recruitment of the CFO. Mr Musa Zwane and I were also part of the panel dealing with the short listings. The requirements were that the applicant should have extensive aviation experience, but also financial management and CFO experience, which Ms Nhantsi did not have. Ms Nhantsi was removed from the list of candidates, as she did not meet the requirements. Mr. Zwane then informed the panel that the chair wants Ms Nhantsi to be placed on the short list and this instruction was adhered to. She was eventually appointed after the new board members were appointed in 2016.

Suspension

111. On 17 January 2016, I see an email was sent from Mr Linnell, to Mr Lester Peter, who was ACPO, to Mr Zwane with an attached letter for my suspension (**Annexure 52**). On 19 January 2016, on my first day upon my return from leave, the Company Secretary, Ms Ruth Kibuuka called me to her office where she presented me with two sealed envelopes. She claimed that she was not aware of the contents thereof. She further advised me that Mr Zwane, ACEO, had requested that I take leave

112. I opened the envelope and found that it was a letter signed by Mr Zwane which contained allegations of misconduct that I needed to respond to. The second envelope was a copy of the same letter. I read the letter out to Ms Kibuuka. She was very uncomfortable and alleged that she was not aware of the contents of the letter. I asked



Ms Kibuuka who gave her the letter as Mr Zwane was out of the country. She responded by saying it was given to her by Mr Lester Peter, who was the Acting Chief Procurement Officer at that time. I took the letters from Ms Kibuuka and went to my office.

113. I wrote an email to Mr Zwane, and copied Ms Kibuuka wherein I confirmed receipt of the said letters. I expressed my disappointment that he delegated the responsibility to the Company Secretary who was below my level of seniority in the company hierarchy.

114. I subsequently received numerous phone calls from the press and even National Treasury asking me about my suspension even though I was not suspended and there was no formal announcement to that effect.

115. I wrote a second email to Mr Zwane informing him about the journalists' enquiry in respect of my suspension, and attached the enquiries I had received (**Annexure 53**). I expressed concern in that as far as I know the letter received tabling allegations of misconduct was from him, given to Ms Kibuuka and what was the basis of the rumour of my suspension. He responded by saying that he is not aware of the rumour and does not know where the journalist received the information from.

116. I finally met with Mr Zwane in February 2016. In the meeting I asked, him to provide background context into the allegations. I highlighted the fact that he has been my boss for two weeks at that time, so I needed to know what informed and prompted the allegations. I was very upset; I informed him that I have been a model executive and employee; I have worked very hard all my life. I pride myself with honesty and integrity as my values and I strive to live my values at all times. I told him I was at the peak of my career and with a clean record and now these allegations.

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117. Mr Zwane never kept eye contact throughout the meeting. He said to me "It's the Board".

I asked him who in the Board. He said the Chair.

118. After the meeting, my attorney responded to the allegations within the agreed, revised time-frame. He forwarded the response to SAA's attorneys, ENS (**Annexure 54**). This was around mid Feb 2016. I continued to work diligently carrying out my responsibilities in the company. We did not hear from the company's attorneys for a while. My attorney followed up and the attorneys said they had no response or brief from their client.

119. On 5 May 2016, I received a call from the Acting CEO's office advising me of a one-on-one meeting in the afternoon at 16:00pm. I requested to be provided with the agenda in order to prepare for the meeting. I was informed that there was no agenda. At about 16:20pm, Mr Zwane and Ms Kwinana (a Board member at the time) arrived at my office. Mr Zwane gave me a letter that I read in their presence. The letter was to inform me that I was suspended with immediate effect. I refused to sign the letter and referred them to my attorney. Ms Kwinana asked whether I always had to be difficult. They left my office. I called my attorney and informed him of the contents of the letter; he advised that I leave immediately.

On the 30th September 2016, my attorneys wrote to the Minister of Finance, Mr Pravin Gordhan to highlight my plight to him (**Annexure TM55**). This was after the mid-term budget vote of 2016 where he mentioned that the new board of directors at SAA have been tasked to look into the suspensions of executives and address the matter. Unfortunately, we did not receive a response from our letter.



120. On the 2 November 2016, I wrote to the Deputy Chairperson of the Board of SAA, Ms Tryphosa Ramano and the Chairperson of REMCO (Ms Mgoduso) making them aware of my plight (**Annexure TM56**). Unfortunately, I did not receive a response either.
121. My attorneys wrote a further letter to the Minister of Finance on 6 December 2016, requesting response to the email we sent on 30 September 2016 (**Annexure TM57**). We never received response from the Minister.
122. In January 2017, my attorneys wrote to SAA's attorneys, BMK, requesting a date of the disciplinary hearing. The attorneys informed us that they did not have a brief on the matter. Around September 2017, I was informed through my attorneys that SAA had requested that I prepare a representation on reasons why they should uplift the precautionary suspension and review my case. I submitted the representation as requested (**Annexure TM58**). It is my assertion that the allegations and charges are trumped up and an ulterior motive as a consequence of my refusal to cooperate and or authorise the illegal instruction.
123. In the end, after 22 months on precautionary suspension, with such a long, stressful and painful period for myself and my family, I ended up in accepting a mutual settlement with SAA. I was not happy with having to take the settlement, but the legal expenses I had incurred, together with the stress, just made it not worth my while in pursuing further.


DEPONENT

I hereby certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me, Commissioner of Oaths, at AIRWAYS PARK on this the 5th day of JUNE 2019 the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.


COMMISSIONER OF OATHS

FULL NAMES:

ADDRESS:

EX OFFICIO:

THAMSANQA SIPHIWE MBATHA
EX OFFICIO COMMISSIONER OF OATHS
REGISTERED NON-PRACTISING ATTORNEY
REPUBLIC OF SOUTH AFRICA
1 JONES ROAD, AIRWAYS PARK
O.R. TAMBO INTERNATIONAL AIRPORT
JOHANNESBURG, 1627

Annexure “TM1”



Andrew A. Kearthland

From: Andrew <andrewkcommissions@flysaa.com>
Sent: Tuesday, 02 April 2019 14:03
To: Andrew A. Kearthland
Subject: FW: FW: Acting CEO Documents
Attachments: 2015-11-13 Letter to Thuli Mpshe rotation of ACEO position.doc; ATT00001.htm;
2015-11-13 Letter to Minister re Rotation of the Acting CEO position.doc;
ATT00002.htm; ACEO Delegation - Musa Zwane.docx; ATT00003.htm

From: "Yakhe Kwinana" <yakhe@kwinana.co.za>
Date: 15/11/2015 at 13:32:42
To: "MusaZwane@flysaa.com" <MusaZwane@flysaa.com>
Subject: FW: Acting CEO Documents

Best Regards

Yakhe Kwinana

Tel 012 807 0801

Fax 012 807 0633

Cell 079 950 0610

Email yakhe@kwinana.co.za

Physical Address Alenti Office Park, Block H, 457 Witherite Street, The
Willows Ext 82, Pretoria, 0184



From: Dudu Myeni [mailto:dudum@jacobzumafoundation.org.za]

Sent: 15 November 2015 01:25 PM

To: Yakhe Kwinana <yakhe@kwinana.co.za>; Yakhe Kwinana <yakhekwinana@gmail.com>

Subject: Acting CEO Documents

Appointment of Acting CEO

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Directors:

JB Magwaza* (Chairperson), V Jarana (Group Chief Executive Officer), Al Bassa*, ML Kingston*, HP Maluleka*, TN Mgoduso*, T Mhlari*, AH Moosa*, G Rothschild*, MP Tshisevhe*

*Non-Executive Director

*British Citizen

Company Secretary – RN Kibuuka

South African Airways SOC Ltd

Reg. No. 1987/022444/30

A STAR ALLIANCE MEMBER 



SOUTH AFRICAN AIRWAYS

**South African Airways
Chairperson**
6th Floor
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OR Tambo International Airport

Private Bag X 13
Kempton Park
1627

Tel: 27 11 978-2520
Email: Chairperson@flysaa.com

Ms Thuli Mpshe
South African Airways SOC
OR Tambo Airport
Gauteng

Dear Ms Mpshe

ROTATION OF THE ACTING CHIEF EXECUTIVE OFFICER (CEO) POSITION

Following the recent Board engagements that the Board has had with the Executive team at SAA, it has been observed that the Executive team would benefit greatly from a rotation of the Acting CEO position.

Consequently the Board has decided to appoint another member of the Executive team to act as the Group CEO effective 14 November 2015. Your appointment as the Acting Group CEO will therefore terminate on 13 November 2015.

On behalf of the Board, I would like to thank you for the diligent work you have performed during your tenure as the Acting CEO.

Yours sincerely,

Ms. Duduzile Myeni
SAA Board of Directors Chairperson

Date: _____

Directors

DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean),

*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER



SOUTH AFRICAN AIRWAYS SOC LTD

DELEGATION OF AUTHORITY TO ACT AS GROUP CHIEF EXECUTIVE OFFICER

I, **Ms Duduzile Myeni** as the Chairperson of the Board, in accordance with the authority and powers vested in me in terms of the Delegation of Authority approved by a resolution of The Board of Directors of SAA ("the SAA Board") dated 17 February 2011 on behalf of the Board of South African Airways SOC Ltd ("SAA") **hereby delegate authority and power to Mr Musa Zwane**, in his capacity as the CEO for SAA Technical, to act as the Group CEO.

Mr Musa Zwane, is hereby authorised to execute the Delegation of Authority as the Acting Group CEO effective 14 November 2015. In terms of this delegation of authority, **Mr Musa Zwane**, is authorised to sign and approve matters referred to the Group CEO, on behalf of the Board, subject to adherence to the policies and procedures of SAA SOC Ltd.

I SANCTION, PERMIT and CONFIRM everything whatsoever that **Mr Musa Zwane**, may lawfully do or cause to be done on account of this delegation, and I undertake and agree to sanction, permit and confirm everything as aforementioned.

This delegation will remain in force until withdrawn in writing by the Chairperson of the Board.

Thus done and signed at _____ on this _____ of _____ 2015.

Signature _____

As witnesses:

1. _____

2. _____

I, **Mr Musa Zwane**, the undersigned, accept the delegation as set out above.

Signature _____

As witnesses:

1. _____

2. _____



SOUTH AFRICAN AIRWAYS

**South African Airways
Chairperson**
6th Floor
A Block, Airways Park
OR Tambo International Airport

Private Bag X 13
Kempton Park
1627

Tel: 27 11 978-2520
Email: Chairperson@flysaa.com

Minister Nhlanhla Nene, MP
National Treasury
40 Church Square
Pretoria
0002

By email: minreg@treasury.gov.za

Honourable Minister,

ROTATION OF THE ACTING CHIEF EXECUTIVE OFFICER (CEO) POSITION

In the past few weeks, the Board has had a number of engagements with the Executive team at SAA. One of the observations from these interactions has been a realization that members of the Executive team would benefit greatly from a rotation of the Acting CEO position. The experience gained by individual members would greatly benefit the Executives concerned, and would also provide the Board with a ready pool of available resources whenever a need arises for appointing an Acting CEO.

I would like to inform Minister that as a result of the above, the Board has agreed to rotate Ms. Thuli Mpshe, from the Acting CEO position and to appoint Mr. Musa Zwane as the SAA Acting CEO, both effective 14 November 2015.

I hope the Minister will find this in order.

Yours sincerely,

Ms. Duduzile Myeni
SAA Board of Directors Chairperson
Date: _____

Directors

DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean)

*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER 

Annexure “TM2”



MINUTES OF THE SPECIAL MEETING OF THE REMUNERATION AND HUMAN RESOURCES COMMITTEE (2015/03) HELD ON THURSDAY 09 JULY 2015, IN THE 6TH FLOOR BOARDROOM, AIRWAYS PARK, JONES ROAD, KEMPTON PARK, AT 10H00.

**Resolution No/
For Attention**

1. WELCOME, CONSTITUTION OF THE MEETING, APOLOGIES, SIGNING OF ATTENDANCE REGISTER AND ADOPTION OF THE AGENDA

Present

Dr. J Tambi	Non-Executive Director (Chairperson)
Mr. A Dixon	Non-Executive Director
Ms. D Myeni	Non-Executive Director (by telecom)

In Attendance

Mr. N Bezuidenhout	Acting Group Chief Executive Officer (ACEO)
Ms. T Mpshe	GM: Human Resources (GM: HR)
Ms. R Kibuuka	Company Secretary (Co Sec)
Ms. M Makhakhe	Deputy Company Secretary

The Chairperson welcomed all present and a quorum being present, declared the meeting open.

2. ADOPTION OF THE AGENDA

The agenda was adopted with an amendment to indicate that items 4.2, 5.1 and 5.2 were for approval.

The Acting CEO was requested to clarify whether any of the items on the agenda were discussed at the Executive Committee meeting (Exco).

He stated that only the creation of additional positions was discussed at Exco but all other items were not discussed at the management meeting, as they were Board reserved matters.

3. DECLARATION OF INTEREST

All members declared that they had no personal interest in any of the matters tabled for discussion.

4. MATTERS FOR APPROVAL / RECOMMENDATION / DISCUSSION / NOTING

4.1 The Terms of Reference for Critical Executive Level Positions to be Identified

The Chairperson of REMCO informed the meeting that he had written an email to the GM: HR requesting her to draft terms of reference for filling three positions which were:

- (a) Group Chief Financial Officer;
- (b) Chief Operating Officer; and
- (c) Head of Department: Security and Risk.

scd

The REMCO chair indicated that he had not received these terms of reference.

The GM: HR reported that she had responded to the REMCO Chairperson's request and she circulated printed copies of her response. In it, she indicated that her understanding of terms of reference for the new positions was a reference to job descriptions. Her response stated that she did not have sufficient information about the positions to be created to draft job descriptions and in addition, there was not enough time to develop the job descriptions for consideration at the special meeting. The Committee was informed that the jobs were also not budgeted for.

Dr. Tambi stated that he had not received the email because the GM: HR had utilised a Gmail address which he no longer used for official business as it was not safe. He stated that all his correspondence should be routed to his Nepad email address.

The Chairperson of the Board confirmed that she had received the response from the GM: HR and stated her observations as follows:

- (a) The length of time it would take to draft the terms of reference for these positions would depend on how seriously it was taken by the Board, REMCO and Management;
- (b) It was the responsibility of the Board to ensure that there was succession planning in the business. Taking from experience, SAA did not have identified potential successors to the position of CEO and each time a vacancy arose in that position, the Mango CEO had to be called to fill in the position. In another example, the HOD: Security Services had taken ill and there was no replacement to carry on his duties.
- (c) She had received a letter from Labour indicating that SAA was not transforming;
- (d) There was still no successor to the Chief Strategy Officer (CSO) position.
- (e) The contract of the Chief Financial Officer (CFO) was ending in July 2015 and there were no clear successors.

The GM: HR stated that Management had instituted a succession programme aimed at creating a pool of successors for Level 2 management positions (SPP2). Successful candidates were enrolled on a 36 months training programme, where after they would be eligible for appointment in Level 2 positions as they became available.

Mr. Dixon raised a concern that he did not receive any pre-warning that there was an intention to change the management structure. He stated that he only received a call from the Chairperson of the Board indicating that there was a need to appoint a Chief Operations Officer (COO). He stated that there was no motivation for the need to create the proposed positions and the Airline stood to be criticised heavily by Labour and National Treasury for creating new senior positions during a headcount rationalisation process. Mr. Dixon stated that there was already a perception that SAA was 'top heavy'.

The Board Chairperson requested that it be placed on record that new issues would arise at Board Committees because these were forums where members of the Board could raise matters of concern to them and it could therefore not be argued that Members were not pre-warned about discussions.

Further, she stated that when she held one-on-one discussions with the ACEO, it was to highlight the concerns of the Board to Management.

The REMCO Chair indicated that the aim was to consolidate some positions which would

lead to cost saving. Mr. Dixon said he would be happy to support the initiative if it could be demonstrated that there would be some cost saving.

It was reported that:

- The position of the Group CFO was established in anticipation of the holding company structure;
- The position of COO would be created through the consolidation of some positions in the Operations division;
- The position of Deputy HOD: Security and Risk was created to ensure succession in the department.

It was noted that the South African Airways Pilot Association (SAAPA) had written to the Chairperson of the Board complaining about the funds that would be wasted in creating the proposed positions. The Chairperson of the Board highlighted that SAAPA was being insincere in their concern for saving costs when issues of succession were being addressed whilst on the other hand they had resisted the appointment of a black chief pilot until the position was split into two. She stated that SAAPA had not been concerned about costs then.

The Committee stated that the Government of South Africa owned SAA and the Government's imperative was to transform the economy and it therefore followed that state owned companies had to transform.

The GM: HR reported that she understood the importance of succession planning and she was the one who had returned the extended contract of the SAAT CEO because it did not contain succession planning KPIs. She undertook to present the succession plan at the following meeting of REMCO.

The ACEO stated that it should be clarified that the creation of the position of Group CFO was not because of incapacity on the part of the existing CFO.

It was concluded that the Executive should develop the job descriptions for the three positions. **GM: HR**

4.2 The Process to be Followed in Filling these Positions

It was concluded that Management should follow normal process in filling these three positions and there should not be any deviation from the normal recruitment process.

4.3 The Pilot Training Program and its Rationalisation

The Committee stated that SAA needed to have a formal documented process for the progression of Cadet Pilots.

Management reported that National Treasury had authorised the suspension of the cadet pilot scheme and other training initiatives which cost money whilst the company was striving to return to profitability. It was reported that SAA was currently accommodating the progression of trained cadets and incumbents who had been granted SAA bursaries to ensure that they accumulated the required hours through its partners. **ROD**

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It was concluded that this issue would be comprehensively discussed at the HR Workshop. **GM: HR**
The Committee decided that HR should draft an agenda for the planned HR workshop.

4.4 GENERAL

The Committee was informed that two employees from the Legal department had approached the GM: HR with information about one of the General Managers breaching confidentiality rules and amending a legal opinion. The ACEO reported that he had requested that the allegations should be reduced to writing so that he could address them formally.

It was concluded that once the formal report was received, normal disciplinary process **GM: HR** would be followed and the Committee would be informed about the outcome of the disciplinary process.

The GM: HR and ACEO left the meeting.

5. Closed Session

A closed session was held. Refer to closed session minutes.

6. Staff Rationalisation

The ACEO re-joined the meeting.

The ACEO reported that HR had involved the CCMA throughout the staff rationalisation process as independent observers. The CCMA commissioners had then requested a meeting with the ACEO to highlight a few concerns raised by Labour:

- (a) Labour indicated that Management was not fully transparent with the finances;
- (b) Labour had queried the ACEOs statement in the media inferring that SAA was not yet out of the woods but was making steady progress.
- (c) Labour wanted an explanation with regard to the media reports around the SAA / Emirates relationship.
- (d) The SAAT Unions requested information around the AAR partnership.

The Committee was informed that the ACEO would be meeting Labour the following day between 4:00pm and 6:00pm and invited members of the Board to join him in the meeting.

The ACEO left the meeting.

7. CLOSURE OF THE MEETING

There being no further matters for discussion, the Chairperson declared the meeting closed.

The next meeting is on 07 August 2015

[Signature]
CHAIRPERSON

02/11/2015

COMPANY SECRETARY - CONFIDENTIAL

[Signature]
SECRETARY
02/11/2015

[Signature]

REMCO 09 July 2015
Page 4 of 5

Date:

Date:



A handwritten signature in black ink, consisting of a stylized 'M' and 'A' intertwined.

A small, handwritten signature in black ink, appearing to be a single character or a very short word.

MINUTES OF THE MEETING OF THE REMUNERATION AND HUMAN RESOURCES COMMITTEE (2015/02) HELD ON MONDAY 18 AUGUST 2015, IN THE 6TH FLOOR BOARDROOM, AIRWAYS PARK, JONES ROAD, KEMPTON PARK, AT 10H00.

**Resolution No/
For Attention**

1. WELCOME, CONSTITUTION OF THE MEETING, APOLOGIES, SIGNING OF ATTENDANCE REGISTER AND ADOPTION OF THE AGENDA

Present

Dr. J Tambi	Non-Executive Director (Chairperson)
Mr. A Dixon	Non-Executive Director
Ms. D Myeni	Non-Executive Director

In Attendance

Ms. T Mpshe	Acting Chief Executive Officer (ACEO)
Ms. R Kibuuka	Company Secretary (Co Sec)
Ms. M Makhakhe	Deputy Company Secretary
Ms. N Moodley	Acting GM: Human Resources (AGM:HR)
Mr. L Erasmus	HOD: Employee Relations (HOD: ER)

The Chairperson welcomed all present and a quorum being present, declared the meeting open.

He informed Members that the meeting was postponed as he was part of the SAA delegation attending the launch of the inaugural flight from Accra to Washington. He reported that the flights were almost at full capacity and the launch was well attended. It was noted that there was a lot of good will for SAA regionally and internationally which the Airline should capitalise on.

2. ADOPTION OF THE AGENDA

The agenda was adopted with amendments to include an update on the recruitment process for the CEO as item 7.3

3. DECLARATION OF INTEREST

All members declared that they had no personal interest in any of the matters tabled for discussion.

The declaration of interest file was circulated.

4. APPROVAL OF MINUTES

4.1 Minutes of the Meeting Held on 18 May 2015

The minutes of the meeting held on 18 May 2015 were approved without any amendments.

4.2 Minutes of the Meeting Held on 09 July 2015

The minutes of the meeting held on 09 July were approved with the following amendments:

COMPANY SECRETARY - CONFIDENTIAL

- (a) Item 4.1, page 3, second paragraph, third bullet, to include 'Deputy' before HOD: Security and Risk;
- (b) Item 4.1, page 3, third paragraph, second sentence to be rephrased to read, '...SAAPA displayed insincerity in their concern for saving costs when issues of succession were being addressed whilst on the other hand they had resisted the appointment of a black chief pilot until the position was split into two.'

5. MATTERS ARISING FROM PREVIOUS MEETINGS

5.1 Action List

5.1.1 Feedback on Employees Implicated by the Investigation Against Mr. Kalawe

The Committee requested the Acting CEO to expedite the receipt of the final report from **ACEO** Edward Nathan Sonnenbergs (ENSAfrica) on employees implicated by the investigation against Mr. Kalawe.

It was noted that ENS as the investigators would be better placed to be disciplinary officers whilst SAA would appoint presiding officers who would either be internal within the SAA Group or external depending on the level of the employee being disciplined.

5.1.2 Mr. Kalawe's Settlement Agreement

It was reported that Mr Kalawe handed over all SAA electronic equipment, including the **Matter Closed** company cell phone to ENSAfrica attorneys in Cape Town.

5.1.3 Annual Review of the REMCO Charter

It was reported that the REMCO Charter was approved by the Board on 10 July 2015. **Matter Closed**

5.1.4 Academy of Learning

It was reported that SAA launched an Academy of Learning in 2013 and had partnered with several institutions to offer accredited programs to its learners.

It was reported that the first steps in achieving the fully-fledged Academy that offered aviation studies were taken by ensuring that the organization was recognised as an accredited Learning Organization. To this point, SAA was accredited with CAA to offer various compliance courses at various levels for In Flight, Flight Operations, Cargo, Airport Operations, Safety and Security. In addition, SAA was in the process of seeking accreditation with IATA to offer Airline courses for the region. SAA had also been granted accreditation by the Association of Chartered Certified Accountants to offer Finance related courses.

It was reported that SAA was exploring partnerships with universities in the United States and this process would be explored further once the rationalisation process was completed.

Members welcomed the initiatives but requested Management to also seek opportunities for collaboration with local and regional institutions and in particular Ethiopian Airlines

which had a fully-fledged training academy.

5.1.5 Appointment of the Company Secretary

It was reported that the Company Secretary had been appointed and commenced duties on 01 June 2015. **Matter Closed**

5.1.6 Training, Funding and Absorption of Cadet Pilots between the three Airlines (SAA, SAX and Mango)

It was reported that SAA and SA Express signed a Memorandum of Understanding (MoU) on post cadet development at the end of April 2015, which was attached to the meeting pack. SAA reported that a similar MoU was being negotiated with Mango.

6. STANDING ITEMS

6.1 HR REMCO Report

The HR report was noted and Members addressed the specific issues included in the report below.

6.1.1 Exit Interviews Report

The Committee noted that the prevalent and recurring reason for leaving stated by many of the exiting staff was lack of advancement at SAA. Management stated that one of the greatest challenges was that staff did not improve themselves once employed despite SAA offering bursaries for staff to obtain primary qualifications and a range of other educational opportunities.

The Committee concluded that Management should make a concerted effort to inform staff of the need for self-improvement and the interventions and opportunities offered by the Airline in this regard. **AGM: HR**

6.1.2 HR LTTS Themes - Feedback on Progress made by Management in Implementing the Pilot Strategy

The HOD: Employee Relations (ER) reported that National Treasury had submitted a list of queries on the Pilot Strategy and SAA had sent its response to the Shareholder at the end of July, however there had been no indication from National Treasury whether the responses were satisfactory.

It was reported that Management was still in salary negotiations with the Pilots and had to finalise those negotiations before commencing with discussions on the conditions of employment.

Management was requested to ensure that the Committee and the Board were kept abreast of the developments as they were ultimately accountable for the Pilot Strategy. It was agreed that Management should forward all the correspondence between SAA and the Shareholder on this matter to REMCO. **AGM: HR**

Members enquired about progress made in applying for SAA to be declared a national key point and for aviation to be declared an essential service. Management stated that a legal opinion was obtained from ENSAfrica which stated that the declaration of SAA as a national key point would not be feasible. Management was requested to approach the relevant Government Department starting with the Shareholder Ministry to get a direct response on whether SAA's application would be feasible or not. The Committee requested a copy of the legal opinion. **ACEO**

6.1.3 Feedback on Staff Rationalisation

The HOD: ER reported that the Airline had concluded a collective agreement with SAA Labour unions on the rationalisation process on 25 July 2015 whilst none was concluded with SA Technical (SAAT).

However, subsequent to conclusion of the collective agreement, Labour Unions, AUSA, NUMSA, SATAWU, Solidarity, and others sought to prevent SAA from proceeding with its retrenchment exercise pending compliance with a fair procedure. The Committee was informed that the Labour Court had ruled against all Unions with regard to both SAA and SAAT. In relation to SAA, the Court held that the collective agreement concluded between SAA and its recognised trade unions was valid and binding. In relation to SAAT, the Court found no substantial procedural failure in relation to SAAT that would warrant the intervention of the court.

The Labour unions had since been informed that all parties had 5 days to come to the table before consultations were terminated.

It was noted that SAA's win over the Labour unions was a landmark case which would create precedence.

The HR Team and Management were commended for the good work done during the rationalisation process and Members requested an update by end September.

6.1.4 Employment Equity

Members noted SAA's performance against EE targets and highlighted that there was a need to focus on achieving the targets for African males across all staff categories as well as targets for disabled people.

Management was requested to establish the percentage of Economically Active Persons (EAP) who were disabled to ascertain whether the target set was realistic and achievable. That being said, Members stated that there were a number of talent sourcing companies which specialised in placing disabled persons which Management should engage. It was further stated that there were jobs which could be earmarked for disabled persons such as receptionist jobs. **AGM: HR**

Members noted the Memorandum of Understanding (MoU) concluded with SA Express on the post cadet development program and enquired about the MoU with Mango. Management reported that the MoU with Mango was still being negotiated. **AGM: HR**

6.1.5 Employment Equity Plan

The Committee noted SAA's 2014-2017 Employment Equity Plan. The Acting CEO reported that the report was included for information purposes.

6.1.6 Employment Equity Report

The Committee noted the 2014 Employment Equity report.

6.1.7 Succession Planning Update

Appointment of Chief Strategy Officer

The Acting CEO stated that she had approached the HOD: Project Management Office (PMO) to act in the CSO's position during the recruitment process. She stated that the HOD: PMO had written a letter accepting the acting role but setting a number of conditions which the Acting CEO sought to discuss with the Chairperson of the Board.

It was **RESOLVED** that:

- (a) The process for the appointment of a Chief Strategy Officer (CSO) should commence immediately and timelines provided to the Committee for the filling of the position. **2015/04/01**
Members stated that internal candidates should be given preference. **AGM: HR**

In a related discussion, the Committee **RESOLVED** that:

- (a) 2 understudies should be identified and appointed to the GM: Commercial and Chief Financial Officer positions and the timeline for the selection and appointment communicated to REMCO; **2015/04/02**
AGM: HR
- (b) All Executive Managers and subsidiary CEOs should each select and appoint 2 understudies within a specified timeline to be communicated to REMCO.

6.1.8 Performance Management

It was reported that contracting for the 2015/16 financial year was at 72%, however, there was a need to inculcate an understanding within the Group that line management was responsible for performance management, not HR. It was concluded that Executive Management should be invited to the HR REMCO Workshop during discussion of performance management. **AGM: HR / Co Sec**

7. MATTERS FOR APPROVAL / RECOMMENDATION / DISCUSSION

7.1 The Issue of the Chief Pilot and Head of Flight Operations

Members stated that the position of Chief Pilot and Head of Flight Operations should be combined to reduce costs in line with the cost compression programme.

The ACEO stated that she had to guide the Committee to ensure that Members took decisions from an informed perspective. She reported that the two positions had always been split and the only exception was the previous Chief Pilot, Capt. Johnny Woods. She stated that during his time the roles were combined because the Head of Flight Operations

was seconded elsewhere.

She indicated that currently the two pilots were paid their salaries including a management fee for their management duties; therefore, there would not be a significant saving should the roles be combined. She cautioned that there would be employee relations and labour relations implications should the roles be combined. The Committee was informed that the combined job would have to be evaluated, profiled, evaluated and advertised before it could be awarded.

The Committee indicated that it was not making its recommendations from an uninformed perspective. It was reported that the current Head of Flight Operations was groomed and earmarked by the erstwhile joint Chief Pilot and Head of Flight Operations to take over the joint portfolio and at the time there was no intention of splitting the portfolio. The Committee highlighted that there was never any indication that Capt. Woods had been inefficient or inundated by the combined portfolio. Therefore, unless it could be proven that the erstwhile Chief Pilot was unable to perform the two roles efficiently there was no need to revert to the historic position.

Members observed a reluctance to transform SAA in accordance with Government's transformation imperatives, and a general undermining of Black people in the organisation. The Chairperson of the Board indicated that she had pursued the appointment of the first Black Pilot at SAA and had been met with extreme resistance which had culminated in the splitting of the position as a compromise. In addition, there was a deterioration of respect between the Board and Management.

The ACEO stated that it was against proper governance principles for Members of the Board to accept complaints from staff members and act on them. She stated that when such complaints were received they should be directed to Management to address. Mr. Dixon reiterated the ACEO's sentiments that the Board should not get involved in Management issues.

It was reported that the Chief Pilot was on a flight with the Chairperson of Audit and Risk (ARC) and had voiced his frustrations. The ARC Chairperson had then referred the complaint to the Chairperson of REMCO for discussion at the meeting. Members acknowledged that the Chief Pilot should have tabled his complaint with the GM: Operations and / or the Acting CEO, however, in the case where the two managers were part of the problem as the advocates for the division of the position it was difficult for the Chief Pilot to approach them.

The AGM: HR and HOD: ER left the meeting.

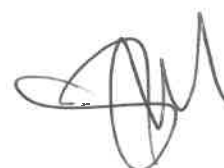
The ACEO declared that she supported transformation but recognised that it should be implemented through appropriate processes.

After lengthy deliberations it was **RESOLVED** that:

- (a) The role of Chief Pilot and Head of Flight Operations should be combined;
- (b) HR should draft a report highlighting the advantages and disadvantages of combining the role and any perceived risks;
- (c) The report from HR should outline how any identified risks would be mitigated to facilitate combining the two roles.

2015/04/03

AGM: HR

7.2 Preparation for the AGM

7.2.1 Confirmation of Directors' Fees for the year ended 31 March 2015

The Committee noted Directors' Fees for the year ended 31 March 2015.

7.2.2 Noting of the Remuneration of the members of the Group Executive Committee for the year ended 31 March 2015

The ACEO undertook to circulate the remuneration of the members of the Group Executive Committee for the year ended 31 March 2015 to REMCO members as it was not included in the meeting pack.

ACEO

7.3 Recruitment Process for the Chief Executive Officer (CEO) Position

The Committee considered a submission to select the preferred service provider to conduct the recruitment process of the SAA CEO. It was highlighted that the selected service provider would be used to conduct the process for both internal and external candidates.

It was noted that the submission of the service providers had been circulated to Members prior to the meeting, however, the Chairperson had not received the documentation as the wrong email address was used. The Chairperson undertook to review the submission and revert with his vote by Friday, 21 August 2015.

7.4 The Terms of Reference for Critical Executive Level Positions Identified

The Acting CEO reported that she had emailed draft job descriptions for the positions of Chief Operations Officer, Group Chief Financial Officer and Deputy Head of Security to REMCO members. The Chairperson of the Committee stated that he had not received same and alerted the ACEO that she may have sent the documents to the wrong email address again.

Mr. Dixon highlighted that he was of the impression that the proposal to fill these positions was abandoned. The ACEO reported that she had only submitted the job specifications because the Committee requested her to and because she did not want to be charged with insubordination for stupid things. The Committee objected to the ACEO's reference to Member's instructions as stupid and she explained that she meant that if she had not sent the job specifications the Board could deem her insubordinate for not honouring their instructions.

She continued to state that the draft job specifications were drafted so that the Committee and Management could engage on them. She stated that in developing the draft specification HR had incorporated elements from generic specifications, however, REMCO would have to provide guidance with regard to the uniqueness of the roles in line with the Committee's vision for the roles.

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The Committee highlighted that the Board was responsible for ensuring that there was succession planning within the organisation, particularly at the executive level and this was the motivation for the creation of these positions. It was emphasised that the lack of successors to senior positions was part of the reasons the Airline was in such a poor state.

8. CLOSED SESSION

The ACEO left the meeting and the Committee went into a closed session.

9. CLOSURE OF THE MEETING

There being no further matters for discussion, the Chairperson declared the meeting closed.

The next meeting is on 02 November 2015


CHAIRPERSON

Date: 02/11/2015


SECRETARY

Date: 02/11/2015

Annexure “TM3”



Note – See paragraph (6) for more information on the SOC.

(6) With respect to the SOC, for each operator or applicant –

- (a) a SOC is required whether applying for domestic or international authority;
- (b) the SOC shall be in the form of a complete listing of all parts of the regulations, including technical standards, as applicable to the operation the applicant is proposing, with space for the applicant to show how each regulation applicable to him or her has been met through specific reference to the operator's operations, maintenance or other required manuals;
- (c) the SOC shall be updated by operators to reflect amended regulatory requirements or if the references showing the means of compliance in the SOC change as a result of amendments to the operator's manuals; and
- (d) the Director may require the completion of a SOC by an operator at any time deemed necessary in the interest of public safety.

2. Required management positions

- (1) An operator shall employ the management personnel required by CAR 121.06.2(5) on a full time basis to ensure proper control and supervision of its personnel and operation. Section 3 of this TS states the minimum qualifications and responsibilities of the incumbents.
- (2) The application forms for the required managerial positions will be reviewed to ensure the minimum qualifications are met. The assessment process may involve the use of quizzes or interviews to establish the suitability of each nominee. Where a nominee is known within SACAA, the Director may approve such nominee without the need for further assessment.
- (3) An operator may use whatever title deemed necessary for its managers and may assign some of the responsibilities for a given position to another person or persons or the responsibilities of more than one position to one person; however, all the responsibilities noted in section 3 shall be assigned to a nominated manager and such assignment clearly identified in the operations manual. Furthermore, every person assigned any responsibility associated with a required position shall also meet the qualification requirements associated with the responsibilities assigned.
- (4) An operator shall develop a method of ensuring that, in the absence of a responsible manager for any reason, all the responsibilities of that manager are assigned to another individual. Such individual shall meet the qualifications required for the responsibilities assigned except that the knowledge requirements may be demonstrated to the operator rather than the Director. Any assignment issued for a period greater than 30 days must be acceptable to the Director.

3. Approved positions, minimum qualifications and responsibilities

(1) Chief Executive Officer (CEO)

(a) Qualifications

The CEO shall not have had any conviction or administrative sanction under the Act or these Regulations which, in the view of the Director, was sufficiently serious to render such person not fit and proper to exercise the responsibilities of such position.

(b) Responsibilities

The CEO shall –

- (i) have full authority for all human resources;
- (ii) have authority for major financial decisions;
- (iii) have direct responsibility for the conduct of the company's affairs; and
- (iv) have final responsibility for all safety and security issues.

(2) Person Responsible for Flight Operations (PRFO)

- (a) Qualifications: The PRFO shall, as a minimum –
- (i) hold or have held the pilot licence and ratings appropriate to the aeroplanes being operated; or
 - (ii) demonstrate adequate knowledge of the operation of such aeroplanes; or
 - (iii) have acquired not less than 3 years supervisory experience in the flight operations department of an operator whose flight operations are similar in size and scope or acceptable alternative experience;

Notes –

1. In determining similar size of flight operations, the grouping of operators is based upon the following categories –
 - (a) large aeroplanes having a maximum certificated passenger seating capacity of 20 or more up to and including 50; and
 - (b) large aeroplanes having a maximum certificated passenger seating capacity of more than 50.
2. The PRFO of an operator acquiring larger aeroplanes or increasing the complexity of its operations may continue in such position: Provided –
 - (a) the operator is not acquiring aeroplanes more than 1 category higher than presently operated; and
 - (b) he or she becomes conversant with the new aeroplane or new operations, as applicable, within 3 months of the change.
3. A PRFO leaving an operator to take a PRFO position with another operator having a fleet of larger aeroplanes may do so: Provided –
 - (a) the new operator does not operate aeroplanes more than 1 category higher than those with which the PRFO has experience;
 - (b) he or she had at least 3 years' experience as the PRFO of the operator having smaller aeroplanes; and
 - (c) he or she demonstrates adequate knowledge of the aeroplanes and flight operations of the new operator prior to acting in the position.
 - (iv) demonstrate knowledge to the Director of the content of the operations manual, the operator's certificate and operations specifications, as well as those provisions of the regulations and technical standards necessary to carry out his or her duties and responsibilities to ensure safety; and
 - (v) not have had any conviction or administrative sanction under the Act or the Regulations which, in the view of the Director, was sufficiently serious to render such person not fit and proper to exercise the responsibilities of such position.

(b) Responsibilities

The PRFO is responsible for safe flight operations, in particular –

- (i) the control of operations and operational standards of all aeroplanes operated;
- (ii) the identification of operations co-ordination functions which impact on operational control (e.g. maintenance, crew scheduling, load control, equipment scheduling);
- (iii) the supervision, organisation, manning and efficiency of the following –

- (aa) flight operations;
- (bb) cabin safety;
- (cc) crew scheduling and rostering; and
- (dd) training programmes;
- (iv) the timely resolution of safety issues;
- (v) the contents of the operator's operations manual;
- (vi) the supervision of and the production and amendment of the operations manual;
- (vii) liaison with the regulatory authority on all matters concerning flight operations, including any variations to the operator's AOC;
- (viii) liaison with any external agencies which may affect the operator's operations;
- (ix) ensuring that the operator's operations are conducted in accordance with current regulations, standards and the operator's policy;
- (x) ensuring that crew scheduling complies with flight and duty time regulations and that all crew members are kept informed of any changes to the regulations and standards;
- (xi) the receipt and actioning of any aeronautical information affecting the safety of flight;
- (xii) the dissemination of aeroplane safety information, both internal and external, in conjunction with the safety management system;
- (xiii) the qualifications of flight and cabin crews; and
- (xiv) the maintenance of a current operations library.

(3) Person Responsible for Aircraft (PRA)

(a) Qualifications

The PRA shall, as a minimum –

- (i) have or have held an aircraft maintenance engineer (AME) licence, issued in terms of Part 66, or –
 - (aa) at least have training and experience that may qualify the individual to obtain an AME licence;
 - (bb) hold or have held a pilot licence and ratings appropriate to the aeroplanes being operated or demonstrate adequate knowledge of the maintenance of such aeroplanes; or
 - (cc) hold an engineering degree in aeronautics, electrical, mechanical or avionics or other studies relevant to aircraft maintenance with 5 years experience in the aviation domain after obtaining that qualification;
- (ii) have at least two years' experience in an executive position within aviation, or at least as a Quality Assurance Manager within the aviation domain;
- (iii) have worked directly with the SACAA for at least one year and have not been the Quality Manager of the assigned maintenance organisation; and
- (iv) within the preceding 5 years, have not held a similar position at any different aviation-related organisation where the approval issued by the Director has been suspended or cancelled by the Director or the Minister as a result of the organisation failing to comply with the requirements of the Act.

(b) Responsibilities

The PRA is responsible for safe aeroplane operations, in particular –

- (i) is responsible for all maintenance and inspection personnel and signing of Part D of the operations specifications;
- (ii) ensures that company aircraft are maintained in an airworthy condition;
- (iii) ensures that all inspections, repairs and component changes are accomplished in accordance with the manufacturer's approved procedures;
- (iv) ensures compliance with maintenance procedures, airworthiness directives, service bulletins, service letters and the regulations;
- (v) ensures all maintenance technicians are trained and current on the types of aircraft for which approved;
- (vi) ensures that all maintenance technicians are certified and supervised according to the requirements specified in the regulations;
- (vii) is responsible for the production and amendment of the policy and procedures manual;
- (viii) co-ordinates with maintenance contracting agencies when maintenance activities are being performed on company aircraft;
- (ix) provides the operations manager with the current airworthiness status of the aircraft and the forecast down times to facilitate maintenance scheduling and insure timely deferral or correction of aircraft discrepancies;
- (x) maintains a close liaison with manufacturer's representatives, parts supply houses, repair facilities and the SACAA;
- (xi) makes available to maintenance personnel the necessary overhaul manuals, service bulletins, service letters, airworthiness directives, applicable sections of the MCM/MPM and any other required technical data;
- (xii) maintains all necessary work records and logbooks, including certification in the aircraft permanent maintenance records that the aircraft is approved for return to service;
- (xiii) maintains the mass and balance records for all aircraft; and
- (xiv) completes all required reports and submits them to the operations manager for forwarding to the SACAA.

(4) Chief Pilot

Note – Where an operator appoints a chief pilot for each aeroplane type operated, it must name one person in its operations manual who is responsible for the overall flight standards of the operator's aeroplane fleet. Notwithstanding, the qualifications and responsibilities stipulated below shall apply to all chief pilots.

(a) Qualifications

The chief pilot shall, as a minimum –

- (i) hold a valid ATPL, a valid multi-engine aeroplane instrument rating and a type rating for at least one of the types of aeroplanes operated;
- (ii) have at least 3 years aeroplane experience as pilot-in-command of a multi-engine aeroplane of a type operated by the operator and in the type of operations contemplated (domestic, international, cargo, passenger);
- (iii) be qualified for line flying on one of the types of aeroplanes operated;

Annexure “TM4”




SOUTH AFRICAN AIRWAYS
FLYSAA.COM

South African Airways
Company Secretary
Suite 2, 6th Floor
Airways Park
1627

Private Bag X13
ORF International Airport
1627

Tel: 27 11 878 5553
Fax: 27 11 878 5343

Email: secretary@flysaa.com

EXCERPT FROM THE DRAFT MINUTES OF THE MEETING OF THE REMUNERATION AND HUMAN RESOURCES COMMITTEE (2015/06) HELD ON MONDAY 02 NOVEMBER 2015, IN THE 6TH FLOOR BOARDROOM, AIRWAYS PARK, JONES ROAD, KEMPTON PARK, AT 14H30

The Issue of the Chief Pilot and Head of Flight Operations

It was reported that a report highlighting the advantages and disadvantages of combining the role of the Chief Pilot and Head of Flight Operations and any perceived risks relating to the combination was included in the meeting pack.


Members stated that at the last REMCO meeting the resolution of the Committee was that Management should advertise the joint position. The Committee was informed that HR had drafted a risk report as per the last meeting's resolution and had held formal consultations with the 2 affected Pilots. After the consultations with the 2 pilots, consultations with SAAPA were held and SAAPA had formally written to Management stating, amongst others, that approval would have to be sought from the Civil Aviation Authority (CAA) to combine the positions. The letter from SAAPA and the risk report were distributed at the meeting.

The Committee was informed that according to the employee relations process, the combined position would have to be opened to all pilots not just the 2 affected pilots and depending on the outcome of the recruitment process both or either of the incumbents could challenge the decision if unsuccessful.

The Committee noted the feedback and concluded that:

- (a) Management should urgently lodge an application with the CAA and the Department of Transport to combine the positions; and
- (b) The Company Secretary should be copied in the transmission of the application to the CAA to provide confirmation to the Committee that the application was sent.

Certified a true extract of the draft minutes.


Nobana Makheke
Deputy Company Secretary
Date: 20/11/2015

Directors

DC Meyer* (Chairperson), WH Meyer* (Chief Financial Officer), Y Kufana* JE Tzame* (S. 100/101), AD Gweta*

*Non-Executive Director

Company Secretary - Rush Kzi Juba

South African Airways SOC Ltd

Reg No: 1997/022146/30

A STAFF LANCE MEMBER

Santa Airline Always Acting CEO

Always Fast
5- Floor
Off Tenth International Airport

2012-03-08 X 13
 Kingston Park
 1527

File: 27-11975-3130
 From: 10/24/2013

Mr. Andries Ntshane
Director General
Department of Transport
Pretoria
0001

E-mail: ntjanem@dot.gov.za

Dear Mr. Ntjane

Re: Merging the Flight Operations Manager and the Chief Pilot roles

The purpose of this submission is to request approval from DOT for the merging of the Flight Operations Manager and the Chief Pilot positions.

The rational for the proposition is:

South African Airways embarked on a rationalisation exercise where all areas of business were revised to optimise the way in which SAA is structured.

In terms of the current Post Holder structure the General Manager, Operations has the CEO's delegated authority as the Accountable Manager for the purposes of running the operations of the airline and has the authority to:

- i. Have full authority for all operational human resources;
- ii. Have authority over major financial decisions impacting operations;
- iii. Have direct responsibility for the conduct of the company's ~~affairs~~ ^{business} in the operations environment, and
- iv. Have final responsibility for operational safety and security ~~in~~ ^{of} issues in the airline.

04/05/25

[illegible]

Non-Executive Director

Company Secretary - Ruth Krojaka

Health Affairs Agency SOC Ltd

Reg. No 193-022443

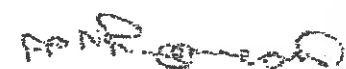
[Handwritten signature]

The airline will remain aligned and compliant with the provisions of the Civil Aviation Regulations and in particular Part 121.06.2 of the CARS following such a merger.

The newly merged role will be advertised for suitable candidates to apply. The normal process of advising the CAA of the successful candidate will be adhered to.

We trust you find the above in order.


Supported by:



Thuli Mpshe

GM: Human Resources

Approved by:


Mase Zwane
Acting CEO SAA



Annexure "TM5"





SOUTH AFRICAN AIRWAYS

Memorandum

Human Resources

To: Chairperson of the SAA Board
From: General Manager: Human Resources
Cc: Acting CEO

Date: 1 October 2015

Subject: APPOINTMENT OF MR. KENDY PHOHLELI

Dear Chairperson

APPOINTMENT OF MR. KENDY PHOHLELI

The resolution of the Board regarding Mr. Kendy Phohleli's appointment in the Manager of the Chairperson's Office and the Chairperson's request that Mr Phohleli's contract be extended for a further period of 3 years in the Commercial Division refers.

1. Extension of Mr. Phohleli contract for a further period of three years

In terms of our fiduciary duty as management, it is important to highlight our concerns with regard to the request that Mr Phohleli's contract be extended for a further period of 3 years in the Commercial Division. The request contradicts the Company's, policies and governance procedures on the following grounds:

a. Contractual compliance and Labour budget deviation

- i. Mr Phohleli's contract expired on the 30th September 2015. As such there is no valid and approved position in Commercial to accommodate the extension
- ii. As such no budget for the remainder of the financial year has been provided for an extension of the contract and a significant deviation from the approved budget would materialize.
- iii. In any event, the addendum to Mr. Phohleli's fixed term contract states that there shall be no further extensions of his contract, which terminated on the 30th September 2015, following the previous 6 extensions of his contract.

b. Section 189 Rationalisation Process in SAA

- i. Key to the section 189 notice submitted to Labour and employees, the Company committed to ensuring that retrenchments would be mitigated or minimised by not

Directors

DC Myeni* (Chairperson), M Kalawe (Chief Executive Officer), WH Meyer (Chief Financial Officer), A Khumalo*, N. Kubeka*, Y Kwinana*, R Lepule*, A Mabizela*, B Mpondo*, R Naithani*(Indian), C Roskrige*

*Non-Executive Director

Company Secretary – Sandile Dlamini

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

Employee Relations Climate | 2014

renewing fixed term contracts in existence so as not to compromise permanent employees who may be affected.

- ii. If the Company were to extend Mr. Phohleli's contract, the Company would attract an adverse response from Labour.

c. Conclusion

- i. For these reasons any extension of Mr. Phohleli's current contract would compromise the Commercial Division's labour costs and contravene SAA's compliance and governance principles and would have the following implications:
 - SAA will demonstrate that it does not respect Labour as a key social partner
 - SAA does not abide by its undertakings
 - The good strides and progress made by the Company with Labour in developing and sustaining a respectful and sound relationship will erode.
 - SAA would face potential disputes which would be adjudicated at the CCMA or even the Labour Court.

2. The resolution of the Board refers.

The Board resolved that Mr. Kendy Phohleli be appointed in the office of the Chairperson with effect from 01 October 2015 to replace Mr. Barry Parsons.

The process and timelines described below will be followed in executing the Board resolution. The process below is informed by the consultations that were held with labour parties under the section 189 Rationalisation process. As an outcome of the consultations, collective agreements were signed with Labour parties and the appointed Management representatives representing Managers in consultations in July and August 2015. The collective agreements, inter-alia, specify the process of advertising and appointments within the Company in the execution of the Rationalisation Process, including any existing vacancies that must be filled.

In compliance with the agreements, the following process will be embarked upon to ensure that the matter is dealt with speedily as the urgency is understood:

- The governance process in terms approval will be completed tomorrow, 02 October 2015
- The advert will be placed on Monday , 05 October 2015 and this will run for 8 days
- Mr. Phohleli may apply for the position
- The shortlisted candidates will be interviewed on the 13th October 2015
- The process will be finalised by no later than the 16th October
- It should be noted that as per the agreements reached with labour, preference will be given to affected employees

The above process will not be a deviation from what has been agreed to with labour and will in no way compromise the section 189 process currently under way.

Employee Relations Climate **2014**

3. Recommendation

It is recommended that the position be advertised. Mr. Phohleli can apply and may be appointed within the process agreed to with Labour. This will minimise the risk of potential disputes which would be adjudicated at the CCMA or even the Labour Court.

Compiled by

Date:

Recommended by

Date:

Lourens Erasmus
Head of Employee Relations

Nivy Moodley
Acting GM: Human
Resources

Approved by

Ms Dudu Myeni
Chairperson of the SAA Board

Date: _____



Andrew A. Keartland

From: Ruth Kibuuka <RuthKibuuka@flysaa.com>
Sent: Monday, 05 October 2015 13:04
To: Nivy Moodley; Thuli Mpshe
Cc: Siyakhula Vilakazi
Subject: RE: Board Resolution - Re: Extension of the Contract Kendy Pholeli
Attachments: FW Appointment of Mr. Kendy Phohleli in the Office of the Chairperson

Hi Nivy,

Thanks for the attached.

Please see my comments in Red below. I think it is important for all parties mentioned to agree on the accuracy of the sequence of events.

Regards

Ruth Kibuuka | Company Secretary

Mobile: +27 083 531 6004 | Phone: +2711-978-6553 | Fax: +2711 978-1055 | E-Mail: RuthKibuuka@flysaa.com
 Floor 6, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Nivy Moodley
Sent: 05 October 2015 12:08 PM
To: Thuli Mpshe; Ruth Kibuuka
Cc: Siyakhula Vilakazi
Subject: Board Resolution - Re: Extension of the Contract Kendy Pholeli

Dear Acting CEO and Company Secretary

Further to the instruction to execute the Board Resolution of the 28 September 2015 with respect to the Extension of Mr Kendy's Pholeli's contract, I wish to record I have not yet received the minutes of the said meeting. The minutes of the meeting in question were not requested, rather an extract from the minutes on the matter regarding Kendy's appointment. This was provided to the Acting CEO on 01 October as per the attached email.

Notwithstanding the above, based on the request of the Acting CEO to respond to the Chairperson of the Board in this regard, Memo 1 dated 1 October 2015 was submitted to the Office of the Acting CEO.

Mrs Nivy Moodley was subsequently invited to a meeting on 2nd October by Yolanda Barron. At this meeting the Chairperson of the Board, the Acting CEO, the Company Secretary and the Chair of the Internal Audit and Risk Committee were present. The Chairperson of the Board thanked Mrs Nivy Moodley for the Memo 1 and proceeded to issue a directive to Mrs Nivy Moodley to implement the Board Resolution of the 28 September 2015 in respect of the extension of the contract of Kendy Pholeli. In response to this instruction, Mrs Nivy Moodley reiterated to all parties present that in the line with HR governance processes and in terms of Section 189 process the following is required to be signed off by the Chairperson of the Board as there is no valid and approved position in the Commercial Division to accommodate the extension:

1. Approval of the amended organogram
2. Confirmation of budget for the extension of Kendy's contract.

Subsequently, Mrs Nivy Moodley hand delivered Memo 2 dated, 2 October 2015 to the Company Secretary who presented it to the Chairperson of the Board. You will recall that you requested me to present the memo to the Chairperson, which I declined as this was a matter between the two of you, and she was waiting for you to provide her with your response. You then proceeded to leave it in my office to go collect your bags. On your return you found the Chairperson in my office and the two of you discussed the Memo. The Chairperson of the Board declined to sign the memo and instructed Mrs Nivy Moodley to prepare the contract as follows:- (attachment Minutes – Ruth):- The list of items mentioned below, does not comprise minutes as defined. Rather it is a list of items that the Chairperson requested you to carry out. Referring to this list as minutes may be misleading.

1. Extend the contract to 3 years, if need be add to the contract new assignments
2. Nivy to sign Kendy's contract and provide copy to the chair on Monday , 5 October 2015.
3. Unblock Kendy's access card to enable him to have access to the building, in order to report to the Chairperson's office
4. Reinstate Kendy's email and cell phone facilities.

I wish to record the above instruction is contrary to SAA's Governance processes.

In terms of Corporate Governance, the position of Acting GM :HR reports to the Acting CEO. I am therefore not in a position to execute an instruction outside my reporting line.

Should I be instructed to execute the Board Resolution I would like to lodge my concerns and reservations with all parties.

Kind Regards

Nivy Moodley | HOD Learning and Development | SAA Academy of Learning

Phone: +2711-978-3084 | E-Mail: NivyMoodley@flysaa.com
Room 102, Corporate Development Center- Johannesburg- South Africa

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Annexure “TM6”



Andrew A. Keartland

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Sent: Friday, 21 August 2015 21:42
To: Thembi Mngomezulu
Subject: FW: Employment Contract Status

Sensitivity: Private

fyi

Thuli Mpshe | GM: Human Resource | Human Resources

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Kendy Phohleli
Sent: 21 August 2015 04:33 PM
To: Thuli Mpshe
Subject: RE: Employment Contract Status
Sensitivity: Private

Dear Thuli,

Thanks for the discussion today.

I will discuss further with Suretha as per your recommendation as she is Acting on behalf of Sylvain.

As I mentioned to you, I do have my concerns if this is the appropriate channel as Suretha is unlikely to make long-term decisions and the issue is beyond the contractual side only.

I have listed out my concerns, the background and the possible solutions below. I will have to consider what other options are available to me after the discussion with Suretha.

Kind regards

Kendy Phohleli | Executive Africa Hub Project | Commercial

Mobile: +27-71-898-1325 | Phone: +27 11 978-9936 | E-Mail: KendyPhohleli@flysaa.com
Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Kendy Phohleli
Sent: 19Aug15 16:52
To: Thuli Mpshe
Subject: Employment Contract Status
Importance: High
Sensitivity: Private

Dear Thuli,

I am looking forward to meeting with you in person this as I would like to highlight the issue of

my current employment contract with SAA.

At present my role within SAA has been to coordinate, review and implement our West Africa Hub Strategy, a role I took on in September 2014.

Parallel to the progress and success of the West Africa Hub Strategy, I have over the past 12 months also started getting involved with SA Technical, Cargo, Mango and the Board itself to identify and develop other African growth opportunities.

Specifically I am/was involved with Dr Tambi and Barry Parsons to develop an updated Africa Growth Strategy and am working on current business opportunities in Ghana, Nigeria, Ivory Coast and in East Africa on behalf of the SAA Group.

My current fixed term contract comes to an end on 30 September and I was expecting this to be reviewed and renewed. Given the consistent experience I have had where my role and contributions to SAA are not valued by the GM Commercial Sylvain Bosc, the contract is unlikely to be renewed unless there is intervention.

I have applied for 2 permanent roles within Commercial over the past year, none for which I was interviewed for or received any feedback for. This was disappointing considering that I successfully ran the entire Commercial Department for 9 months and have lots of measurable achievements to display which the prior CEOs and Boards have acknowledged and appreciated.

The unfortunate outcome and consequence of not having both a accountable person for the Africa Growth Strategy and not having a Chief Strategy Officer to oversee implementation, will likely result in all current efforts and ongoing focus on Africa expansion quickly come to an end despite this being one of our most critical opportunities to get the airline back to profitability.

I would therefore kindly request for your consideration for myself to be considered for the vacant role of Chief Strategy Officer, a role which will ensure focus is retained and momentum is expedited for the SAA Groups expansion plans in Africa, something I am already closely familiar with. As you are aware, I also have a host of other experience on the Commercial, Aero Political and Stakeholder Relations aspects of the airline industry where I am equally able to contribute.

I look forward to discussing the above with you in person and at your earliest convenience.

Kind regards

Kendy Phohleli | Executive Africa Hub Project | Commercial

Mobile: +27-71-898-1325 | Phone: +27 11 978-9936 | E-Mail: KendyPhohleli@flysaa.com
Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

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Annexure “TM7”



372

Subject:

From: Thuli Mpshe

Sent: Wednesday, September 16, 2015 3:52 PM

To: Sylvain Bosc <SylvainBosc@flysaa.com>; Thembi Mngomezulu <ThembiMngomezulu@flysaa.com>; Nivvy Moodley <NivvyMoodley@flysaa.com>; Lourens Erasmus (Employee Relations) <LourensE@flysaa.com>

Subject: FW: African Growth Strategy and Implementation Plan.

Dear Colleagues

Please note my response to the chair on the subject matter.
Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Thuli Mpshe

Sent: 16 September 2015 03:49 PM

To: Dudu Myeni

Cc: M Dudu (dudumyeni@telkomsa.net); Yakhe Kwinana2; Yakhe Kwinana; Tony Dixon (tonydixon@telkomsa.net); John Tambi (john.t@nepad.org); Ruth Kibuuka

Subject: FW: African Growth Strategy and Implementation Plan.

Dear Chair

Thank you for your trailing e-mail regarding the above matter.

Further to the July 2015 Board meeting where the African Growth Strategy (the "Strategy") was provided to the Board; SAA management formally submitted the Strategy for the August 2015 Board meeting, which was a matter for noting. The Strategy submission was compiled and headed by Barry Parsons with input from the SAA management teams from Strategy, Commercial, SAA Technical and SAA Cargo. The submission furthermore contained input from Dr Tambi.

The African Growth Strategy provides an overview pertaining to competition and the applicable aero political landscape. The Strategy, furthermore, identifies the priority markets for growth and also highlights the specific initiatives which are currently underway

for network growth (led by Commercial) and the strategic growth initiatives of SAA Technical and SAA Cargo.

As per the Board meeting of 26 August 2015, members of the Board deferred the subject matter and management intends presenting the same at the strategy session scheduled for 28 – 29 September 2015. Cognisance was taken of further comments made by Dr Tambi at a meeting held at Airways Park on 7 September 2015, that Commercial has been unavailable to further discuss points raised by Dr Tambi. My office has subsequently requested the GM for Commercial to schedule a mutually convenient time between Dr Tambi and himself, should any matter, not already addressed directly between Dr Tambi and Kendy Phohleli, require further deliberation. I am advised that the GM for Commercial's office has directed requests to ascertain to Dr Tambi's availability for such a meeting.

I wish to assure members of the Board that this matter is receiving top priority within SAA.

It should also be noted that Kendy's fixed term contract expires on 30 September 2015. Although his last day in the office will be prior to this due to untaken leave. His current position (Executive Africa Hub Project) is/was "mission-related" (related to the now established operation between Ghana and the USA). Clause B (1) of the addendum to his Fixed Term Contract states that *"there shall be no further extension of the Main Agreement for any reason whatsoever"*. His current contract, thus, cannot be extended for the following reasons:

- 1) termination clause as per his current contract from a governance and compliance perspective; It is important to note that Kendy's contract has been extended 6 times since the first engagement in October 2013; and
- 2) no provision has been made, following the headcount rationalisation process, for his current role to further exist as the purpose of his role has been completed and further operational and execution activities will reside within the ambit of the GM for Commercial.

My office has in the interim been advised that Kendy applied for the Chief Strategy Officer vacant position; a position currently following due recruitment process, as resolved at the last REMCO meeting of 18 August 2015. He will, furthermore, be provided with a list of all advertised HoD positions within SAA currently open for applications and his interests will be considered in line with company requirements.

I trust that you find the above in order and be assured of our best intentions.

Regards,

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com

5th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

374

From: Dudu Myeni <dudum@jacobzumafoundation.org.za>
Date: 15 September 2015 at 15:00:15 SAST
To: Thuli Mpshe <ThuliMpshe@flysaa.com>
Cc: Yakhe Kwinana <yakhekwinana@gmail.com>, Yakhe Kwinana2
<yakhe@kwinana.co.za>, John Tambi <johnnt@nepad.org>, Tony Dixon
<tonydixon@telkomsa.net>, Wolf Meyer <WolfMeyer@flysaa.com>, Ruth Kibuuka
<ruthkibuuka@gmail.com>
Subject: African Growth Strategy and Implementation Plan.

Dear Acting CEO

Africa strategy and implementation plan

As you are aware the LTTS requires that the company develops and implements an Africa strategy as per our decisions in the past months. You are also aware that the Board requested the Executive to provide both the updated strategy and the implementation plan in November 2014 and again in March 2015, and in July Board meeting we got a strategy which was a documented handed over and Dr Tambi had some concerning remarks made.

What I am most concerned about is that this strategy and implementation plan has not been provided to the board for consideration. This would include the resources required for that implementation. This is a critical part of the overall turnaround plan. Africa is our growth area as we continue to see SAA shrinking, as the board, this strategy is critical.

I am also informed that Mr Kendy's (who is part of the Africa management team), contract expires tomorrow and is not to be renewed. I am not comfortable that we are letting resources leave the company who might be a necessary element of the Africa strategy implementation.

Until such time we have considered the comprehensive implementation plan, and what resources we require to deliver on that, you cannot possibly make a rational decision of the resources required. It would amount to wasteful expenditure should we let what might be a critical resource leave the business prior to you completing the plan which is now overdue and then having to consider reengagement.

Please can I have your assurance before end of day that Mr Kendy will not be released until a proper assessment of our requirements have been approved by the board.
Please note, at the Board strategy review at the end of the month, we shall request for a special board meeting for 2 hours to consider outstanding matters and a dry run for an AGM

Kind regards

Ms Dudu Myeni
Phone :035 789 5499
Email: dudumyeni@telkomsa.net
Ms Dudu Myeni
Executive Chairperson
Phone: 035 789 5499
Email: dudum@jacobzumafoundation.org.za

Andrew A. Keartland

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Sent: Tuesday, 06 October 2015 23:12
To: Duduzile Myeni; Dudu Myeni; Yakhe Kwinana2; Yakhe Kwinana; Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); John Tambi (johnt@nepad.org); Wolf Meyer
Cc: Ruth Kibuuka
Subject: FW: Board Resolution
Attachments: IMPLEMENTATION OF BOARD RESOLUTION.docx; FW Appointment of Mr. Kendy Phohleli in the Office of the Chairperson

Dear Board Members

Trust this email finds you well.

It is our humble request that we comply with the governance and policies of the company as per the attached submission. We are willing to action the board resolution in respect of the appointment of Kendy on the proviso that we are compliant. The necessary documentation will be forwarded to Ruth for completion and thereafter the request will be actioned.

We humbly request your support in this regard.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Nivy Moodley
Sent: 06 October 2015 07:06 PM
To: Thuli Mpshe
Subject: Board Resolution

Dear Acting CEO

Please find attached my response with reference to the implementation of the Board Resolution.

Regards

Nivy Moodley | HOD Learning and Development | SAA Academy of Learning

Phone: +2711-978-3084 | E-Mail: NivyMoodley@flysaa.com
 Room 102, Corporate Development Center- Johannesburg- South Africa

Nivy Moodley | HOD Learning and Development | SAA Academy of Learning




Phone: +2711-978-3084 | E-Mail: NivyMoodley@flysaa.com
Room 102, Corporate Development Center- Johannesburg- South Africa

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Two handwritten signatures are located at the bottom right of the page. The first is a stylized signature, and the second is a more cursive signature.

Andrew A. Keartland

From: Ruth Kibuuka <RuthKibuuka@flysaa.com>
Sent: Thursday, 01 October 2015 16:21
To: Thuli Mpshe
Subject: FW: Appointment of Mr. Kendy Phohleli in the Office of the Chairperson

Dear Thuli,

Please see trailing email for your attention.

Regards

Ruth Kibuuka | Company Secretary

Mobile: +27 083 531 6004 | Phone: +2711-978-6553 | Fax: +2711 978-1055 | E-Mail: RuthKibuuka@flysaa.com
 Floor 6, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Mabana Makhakhe
Sent: 01 October 2015 03:32 PM
To: Ruth Kibuuka
Subject: Appointment of Mr. Kendy Phohleli in the Office of the Chairperson

Dear Mrs. K,

There were extensive preceding comments about expiring contracts which were extended at the behest of the Chairperson for Mr. Meyer and Mr. Parsons and thereafter the resolution below was taken.

It was **RESOLVED** that Mr. Kendy Phohleli be appointed in the office of the Chairperson to replace Mr. Barry Parsons effective 01 October 2015.

Kind Regards,
 Mabana Makhakhe | Deputy Co. Secretary | Company Secretary

Mobile: 083 278 8488 | Phone: +2711-978-5912 | Fax: +2711-978-6161 | E-Mail: MabanaMakhakhe@flysaa.com
 Room 110, 1st Floor, Block F, Airways Park OR Tambo International Airport- Johannesburg- South Africa

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Annexure “TM8”



***Important communication where Meyer and Bosc discuss disagreements with board resolution

From: Sylvain Bosc
Sent: Friday, October 09, 2015 11:06 AM
To: Wolf Meyer <WolfMeyer@flysaa.com>
Subject: Fwd: Reduction of the Delegation of Authority

FYI

Envoyé de mon iPhone

Début du message transféré :

Expéditeur: Viwe Soga <ViweSoga@flysaa.com>
Date: 9 octobre 2015 09:37:50 UTC+2
Destinataire: Sylvain Bosc <SylvainBosc@flysaa.com>
Objet: Rép : Reduction of the Delegation of Authority

Hi Sylvain

Sorry just to go back to this e-mail from yesterday.

The Companies Act (section 74) requires that any decision by a Board which takes place outside of a formal and properly constituted Board meeting may only be adopted by written consent of a majority of the directors, provided that each director has received notice of the matter to be decided. These practices are unlawful.

From: Viwe Soga
Sent: 08 October 2015 09:40 AM
To: Sylvain Bosc
Subject: RE: Reduction of the Delegation of Authority

Ruth's explanation here is ridiculous. If a matter has not been circulated to all directors then one cannot say that a lawfully constituted meeting was held in the first place!

From: Sylvain Bosc
Sent: 08 October 2015 09:38 AM
To: Viwe Soga
Subject: FW: Reduction of the Delegation of Authority

Viwe, FYI ; we will have to challenge some "resolutions" that have been made unlawfully, I believe, by the Chair without proper consultation.
I'll keep you posted.

Sylvain Bosc | Chief Commercial Officer | Commercial

Phone: +2711-978-9935 / 1732 | E-Mail: SylvainBosc@flysaa.com
Room 323, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA



From: Ruth Kibuuka
Sent: 06 October 2015 04:30 PM
To: Wolf Meyer; Sylvain Bosc
Cc: Thuli Mpshe
Subject: RE: Reduction of the Delegation of Authority

Dear Wolf,

You are quite right that all directors have a right to agree or disagree with any resolution that may be raised at a sitting of a Board or Committee meeting. However any disagreement/disapproval and /or comments on the resolution can only be taken into account if raised during the course of the meeting whilst the item is being discussed, so that they are properly recorded in the presence of all present. Any comments or afterthoughts outside the meeting unfortunately cannot be considered as part of the official record of the meeting.

Hope the above clarifies.

Regards

Ruth Kibuuka | Company Secretary

Mobile: +27 083 531 6004 | Phone: +2711-978-6553 | Fax: +2711 978-1055 | E-Mail: RuthKibuuka@flysaa.com
Floor 6,Block A,Airways Park,OR Tambo International- Johannesburg- SOUTH AFRICA

From: Wolf Meyer
Sent: 06 October 2015 04:15 PM
To: Ruth Kibuuka; Sylvain Bosc
Cc: Thuli Mpshe
Subject: RE: Reduction of the Delegation of Authority

Dear Ruth

Surely such resolution must be circulated to all directors in order for all directors to express their vote, whether agreeing or disagreeing to the resolution. I think it is important to have on record which directors agree and which do not agree. I certainly have not had the opportunity to vote on any of all these newly imposed resolutions. I am quite positive that this practice is not in line with good corporate governance.

Best regards

Wolf Meyer | CFO

Mobile: +2771-171-2345 | Phone: +2711-978-1515 | E-Mail: WolfMeyer@flysaa.com
4th floor, block C Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Ruth Kibuuka
Sent: 06 October 2015 04:10 PM
To: Sylvain Bosc
Cc: Thuli Mpshe; Wolf Meyer
Subject: RE: Reduction of the Delegation of Authority

Dear Sylvain,



We can confirm that the Delegation of Authority was discussed on 28th September as indicated on the extract.

In terms of the Board Charter, the quorum necessary for the transaction of business of the Board of directors is a majority of directors. The AA Board currently comprises of 5 directors, making 3 members the majority.

Regards

Ruth Kibuuka | Company Secretary

Mobile: +27 083 531 6004 | Phone: +2711-978-6553 | Fax: +2711 978-1055 | E-Mail:
RuthKibuuka@flysaa.com
Floor 6,Block A,Airways Park,OR Tambo International- Johannesburg- SOUTH AFRICA

From: Sylvain Bosc
Sent: 06 October 2015 03:57 PM
To: Ruth Kibuuka
Cc: Thuli Mpshe; Wolf Meyer
Subject: Re: Reduction of the Delegation of Authority

Dear Ruth

If I'm not mistaken, this conversation on the Delegation of Authority was held on Tuesday Sep 29 (and not 28 as stipulated on the attached document).

On that particular day I don't think the meeting can technically be called a Board meeting, given that we only had 3 Board members in attendance and no formal vote was organized.

Can you please confirm what the company governance says on this?

Thanks a lot for your help

Best regards

Sylvain

Envoyé de mon iPad

Le 6 oct. 2015 à 15:47, Dikeledi Raboroko <DikelediRaboroko@flysaa.com> a écrit :

Dear Exco and Manco Members

Kindly find attached Board decision on the DOA for your attention.

Kind regards
Dike



Dikeledi Raboroko | Personal Assistant to Company Secretary | Company Secretary

Mobile: 0763000063 | Phone: +2711-978-2763 | <image003.jpg>E-Mail:

DikelediRaboroko@flysaa.com

Room S01, Floor 6, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

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<Reduction of the Delegation of Authority.pdf>



A handwritten signature in black ink, appearing to be 'DR', is located in the lower right quadrant of the page.

A small, stylized handwritten mark or signature is located at the bottom right of the page, below the main signature.

Annexure “TM9”



Fwd Draft Special Board Minutes-20150929

From: Sylvain Bosc
 Sent: 03 November 2015 05:17 PM
 To: Viwe Soga
 Cc: Wolf Meyer; Thuli Mpshe
 Subject: Fwd: Draft Special Board Minutes-20150929
 Attachments: Special Bod Minutes-20150929.doc; ATT00001.htm

Dear Viwe

~~This was not, in my view, a properly constituted Board Meeting.~~

- 2 out of 5 Directors were missing, 2 out of 4 non exec Directors
- there was no agenda (the Chair rejected the one we proposed)
- there was no vote on any of the "discussions"
- no document was prepared or submitted for consideration.

I believe we should qualify it as a "meeting with Board members" but not a "Board meeting". It is of utmost importance that proper governance is followed and enforced at all times

Can you please liaise with wolf and ensure that Cosec make the appropriate changes to reflect the true nature of the discussions ?

I m also going to review the actual notes now.

Best regards,

Sylvain Bosc

Envoyé de mon iPhone

Début du message transféré :

Expéditeur: Mabana Makhakhe <MabanaMakhakhe@flysaa.com>

Date: 3 novembre 2015 16:54:22 UTC+2

Destinataire: Duduzile Myeni <dudumyeni@telkomsa.net>,

"dudum@jacobzumafoundation.org.za" (dudum@jacobzumafoundation.org.za)"

<dudum@jacobzumafoundation.org.za>, "Yakhe Kwinana2" <yakhe@kwinana.co.za>,

"tonydixon@telkomsa.net" <tonydixon@telkomsa.net>, John Tambi

<johnt@nepad.org>, Wolf Meyer <wolfmeyer@flysaa.com>

Cc: Josua du Plessis <Josuaduplessis@flysaa.com>, Lusanda Jiya

<LusandaJiya@flysaa.com>, Martin Kemp <Martinkemp@airchefs.co.za>, Musa Zwane

<MusaZwane@flysaa.com>, Nico Bezuidenhout <NicoBezuidenhout@flysaa.com>, Nivy

Moodley <Nivymoodley@flysaa.com>, Ruth Kibuuka <RuthKibuuka@flysaa.com>,

Siyakhula vilakazi <Siyakhulavilakazi@flysaa.com>, Thuli Mpshe

<Thulimpshe@flysaa.com>, Ursula Fikelepi <UrsulaFikelepi@flysaa.com>, Tleli

Makhetha <TlelimaMakhetha@flysaa.com>, Zuks Ramasia <ZuksRamasia@flysaa.com>,

Phinda Ncala <Phindancala@flysaa.com>, Sylvain Bosc <SylvainBosc@flysaa.com>,

Bev

Kok <BevKok@flysaa.com>

Objet: Draft Special Board Minutes-20150929

Dear Board Members,

Kindly find attached for your review, the draft Board minutes for the special meeting held on 29 September 2015. May we please have your comments by Monday 09 November 2015.

We would like to apologise for the late circulation of the minutes.

Kind Regards,

Mabana

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Fwd Draft Special Board Minutes-20150929

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A handwritten signature in black ink, appearing to be a stylized 'M' or 'W'.

A handwritten mark in black ink, resembling a stylized 'H' or a checkmark.

Annexure “TM10”



ANNEX 4



SAA Submission
A Private and Confidential
For internal use only

TO:	SAA BOARD OF DIRECTORS
FROM:	Acting Chief Executive Officer
DATE:	20 AUGUST 2015

FOR THE SAA BOARD OF DIRECTORS TO NOTE THE AWARD OF RFP/GSM044/2015 FOR THE PROVISION OF CATERING SERVICES FOR SAA PREMIUM LOUNGES AT OR TAMBO INTERNATIONAL AIRPORT (ORTIA) TO LSG SKYCHEFS SOUTH AFRICA (PTY) LTD.

PURPOSE

To notify the SAA Board of Directors of the awarding of the Provisioning of Catering Services for SAA Premium Lounges at OR Tambo International to LSG SkycheFs South Africa (Pty) Ltd, for a period of three years (i.e. from 01 September 2015 to 31 August 2018), at an estimated amount of R85 819 793.66, inclusive of VAT, further to the finalisation of a due tender process. Notwithstanding that the award is within the Acting CEO's DoA, the Board is duly notified of the award due to the fact that a third party will be performing services previously rendered by SAA's subsidiary company, Air Chefs.

BACKGROUND

SAA's lounge customer value proposition (product and service) has to date been provided by SAA's subsidiary, Air Chefs. The food and beverages on offer are specified in line with customer needs, preferences and expectations. Over time, SAA has experienced a severe deterioration in the quality and standard of product and service delivery offered by Air Chefs, based on premium customer complaints in respect of the customer value proposition at ORTIA's lounges, which are ranked as high-value customer touch points.

The negative customer experience has not only detrimentally affected SAA from a reputational and commercial perspective, but has also resulted in SAA's premium customers beginning to use the SLOW lounge (British Airways customer value proposition), which is SAA's competitor.

Considering that the SAA Voyager member base spend was R 3.99 billion in FY15 (which constituted 23.19% of SAA Passenger Revenue, excluding fuel levies and surcharges, i.e. the base fare), from a strategic risk perspective, it became necessary for decisive action to be taken to address the customer value proposition shortfalls for this premium customer segment in order to ensure customer retention. Several interactions were held between SAA and Air Chefs to find means to improve the level of service delivery achieved however, and notwithstanding these efforts, no improved results were recorded. SAA was, accordingly,

Directors
 DC Myer* (Chairperson), WH Mayer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

Company Secretary – Ruth Kibuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

faced with no option but to take a decision to go out on a confined tender to achieve the desired customer value proposition expected for this premium customer segment.

The decision was further enhanced by the need to present a world-class product, same which was a critical deliverable in the agreement with between SAA and Investec Bank (SAA's partner who provided the necessary capital investment for the overhaul and upgrade of the SAA premium lounges).

Responses to this RFP were received from Air Chefs, LSG Skychefs and Dnata - Newrest. Food Direction and Pinnacle Incubator Hub declined the request to bid.

Due procurement process was followed in respect of which all received responses were evaluated. In this regard, the incumbent current service provider, Air Chefs, failed to meet the initial minimum threshold in the tender and was unable to proceed to further evaluation stages.

FINANCIAL IMPACT

	LSG Skychefs South Africa (Pty) Ltd: Initial offer	LSG Skychefs South Africa (Pty) Ltd: Final offer	DNata-Newrest (Pty) Ltd: Initial offer	DNata-Newrest (Pty) Ltd: Final offer
Bid Price (negotiated)	R88 358 480.76	R85 818 793.66	R111 336 938.17	R111 336 938.17
Score for Pricing (90)	Incl VAT	Incl VAT	Incl VAT	Incl VAT

- The final offer presented by LSG Skychefs South Africa (Pty) Ltd is inclusive of VAT.
- CPI increase in year two of the contract; the impact is to be shared equally 50% (average of the preceding 12 months).
- CPI increase in year three of the contract; LSG Skychefs South Africa (Pty) Ltd will cover 25% of the CPI impact while SAA will cover the remaining 75% (average of the preceding 12 months).

A saving of R2 539 687.10 was achieved after negotiations with the recommended bidder.

SAA has projected approximately 474 500 passengers in lounges per annum. There is a possibility of growth in the passenger number year on year should new airlines contract to use SAA lounges. Should this take place; LSG Skychefs South Africa (Pty) Ltd has offered the following passenger Volume Discount;

Annual Base	474 500	
Discount Percentage	Pax From	Pax to
2% Discount	480 000	500 000
3% Discount	500 001	520 000
4% Discount	520 001	540 000
5% Discount	540 001	560 000
6% Discount	560 001	Onwards

Note: The discount will only be applicable to the per passenger price.

Directors
DC Myer* (Chairperson), WH Meyer (Chief Financial Officer), Y Kvanana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

A STAR ALLIANCE MEMBER 

Company Secretary - Ruth Kibuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30




It should also be noted that, as a result of the award to LSG Skychefs South Africa (Pty) Ltd, there will be a revenue loss to Air Chefs (estimated at R18 million per annum) as well as a negligible negative net profit impact of R1.8 million per annum.

STRATEGIC IMPACT

In electing to go out on tender, the business carefully considered the strategic implications of Air Chefs possibly not being selected as the successful bidder vis-a-vis the business imperative of the retention of premium customers in a highly competitive market. In addition, due consideration was given to any adverse market perceptions created through electing to tender for lounge services, thus carving out a small portion of services rendered by Air Chefs in relation to the total SAA account.

FINAL RECOMMENDATION

It is hereby requested that the SAA Board of Directors note the final award to LSG Skychefs South Africa (Pty) Ltd, for a period of three years (i.e. from 01 September 2016 to 31 August 2018), at an estimated amount of R85 818 793.68, inclusive of VAT. In this regard, and further to a lawful tender process, a third party will be performing services previously rendered by SAA's subsidiary company, Air Chefs.

SIGNATURES

Acting Chief Executive Officer

Ruth Mphahlele

Chief Finance Officer

Directors
DG Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

A STAR ALLIANCE MEMBER

Company Secretary – Ruth Kibuka

South African Airways SOC Ltd

Reg. No. 1897/022444/30

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Annexure “TM11”



Finance Standing Committee

South African Airways (SAA) on Turnaround Strategy and performance

Create an alert

Get free email alerts when we add new information for this committee.

Chairperson: Mr Y Carrim (ANC)

Date of Meeting: 02 September 2015

Summary

The South African Airways (SAA) briefed the Committee on its Long-Term Turnaround Strategy (LTTS), which was implemented in April 2013 in order to address the challenges that SAA had been experiencing. The implementation of the LTTS had slowed down in 2014, but picked up more recently. There had been challenges in the implementation, particularly the delay in cancellation of routes and new fleet and lack of equity injection. The 90 day plan put more focus on the implementation of commercial and financial interventions, and SAA managed to achieve the cost reduction measures and the network remediation in Beijing, Mumbai and Abu Dhabi. The LTTS had been refined with a focus on reviewing assumptions, such as those relating to the fuel prices, and on making adjustments for current internal and competitive realities. Certain areas needed to be addressed and adjusted in the LTTS. These included an adjustment of the financial plan, based on the revised exchange rate and fuel price assumptions, the equity injection was no longer assumed, the headcount rationalisation was included, and there would be more focus on implementation and performance management, and the reviewing of the Fleet and Network Plan. The Board suggested that the focus on cost reduction must be seen in the context that the airline unit costs had been permanently under pressure. SAA had been driving a cost compression programme since 2013, and had achieved R2.2 billion savings to date, and would be continuing to try to reduce by 13% for the next three years. Some of the main areas had been renegotiation of lease agreements to cut costs, current lease extensions, a people cost reduction prioritised on headcount rationalisation, savings on procurement and maintenance contracts, and improvements in using aircraft.

The 2015 year was marked by a difficult financial environment with external pressures such as the Ebola crisis and xenophobia, weakened currency, legacy impairments and financial costs. The current financial year's challenges included the weakened currency, unintended consequences of the new immigration regulations, and more competition. It was still making a loss to the operating results had improved, with revenue levels having dropped with fares reducing because of oil prices, but it had also succeeded in cutting expenditure.

Several Members were very critical of the current leadership, and some suggested that the current Chairperson should resign because she had caused some of the difficulties. It was noted that the delegation did not appear to be particularly well prepared, having failed to anticipate many of the questions that Members had asked, and the point was also made that these questions had been raised before, with unsatisfactory answers being provided. Specific questions were asked about the Emirates deal which was terminated in the last minute, and it was alleged that a specific instruction to do so had been given by the Chairperson after political interference.




This deal could have contributed R1.7 billion to the revenue of SAA. Members said that the Committee should have been provided with the financial plan for the turnaround, specific timeframes that included financial plans to generate profit. They wanted to check if SAA had a shareholder compact and whether this shareholder compact was carefully monitored. There was a growing concern about the fact that most of the officials at SAA were in acting positions, which did not assist to rectify its instability. Members asked if SAA had negotiated the fuel price with its supplier as the fluctuation of fuel price was likely to impact on the expenditure of the institution. Some pointed out that it would be impossible for SAA to rely on further bail-out from the National Treasury (NT), and suggested that it needed to do projections prior to getting an equity injection, and work out how it could survive in times of limited capital injection. They questioned the reasoning behind some of the challenges enumerated, pointing out that the visa regulations could not have made a substantial different, and SAA was in crisis already before these were introduced, but SAA countered with detailing the costs lost through having to refuse a seat to passengers. They criticised the lack of any marketing strategy, wanted a full breakdown of the black industrialists that were doing business with SAA and the possibility of availing opportunities to women-owned corporations or those with disabilities. They were also particularly concerned that SAA failed to explain how this current turnaround strategy as different from the other turnaround strategies that had been implemented in the past, and felt that a hierarchy of cost drivers should have been presented. They were also upset that the catering tender, instead of being awarded to a local company, had been outsourced to a German company and asked how this could happen. The Chairperson confirmed that it would be necessary to look more closely as to what exactly had been done and suggested a meeting between the Minister of Finance, SAA, the Department of Public Enterprises to address the issues raised. In the meantime, SAA was also asked to respond in writing to the issues.

Minutes

South African Airways (SAA): Long Term Turnaround Strategy briefing

Ms Dudu Myeni, Chairperson of the Board, SAA, indicated that a Long-Term Turnaround Strategy (LTTS) was implemented in April 2013 and this strategy was created to address the challenges that SAA was experiencing. The implementation of the LTTS slowed down in 2014 and the main challenges that were experienced then were mainly on the implementation, particularly the delay in cancellation of routes and new fleet and lack of equity injection. The 90 day plan paid more focus on the implementation of commercial and financial interventions, and SAA managed to achieve the cost reduction measures and the network remediation in Beijing, Mumbai and Abu Dhabi routes.

SAA had also managed to correct the governance defects, including the revision of the Memorandum of Incorporations (MoI) and the reviewing of the Materiality and Significance Framework. The LTTS had been refined with a focus on reviewing assumptions (such as the fuel price) and adjustments for current internal and competitive realities.

Ms Myeni stated that there were still certain areas that needed to be addressed and adjusted in the LTTS. These included:

- The Financial plan was adjusted, based on revised exchange rate and fuel price assumptions
- The Equity injection was no longer assumed
- A Headcount Rationalisation was included
- There was increased focus on implementation and performance management
- The Fleet and Network Plan was reviewed
- Provision was made for the current competitive landscape

The refinement was done in consultation with National Treasury (NT) as well as other government departments, but [REDACTED]. She concluded that SAA needed to grow



revenue and reduce costs in order to achieve long-term sustainability.

Mr Joshua du Plessis, Head of Department: Project Management Office, SAA, mentioned that the network plan was reviewed and refined based on current and forecast demands. According to an Oxford Economics Study, SAA's operations had a positive impact on the Gross Domestic Product (GDP) of South Africa. The Fleet Plan was developed, based on the Network Plan, and the Fleet and Network Plans formed the basis of the strategy and were refined with the support of external specialists. SAA was planning to increase the revenue by right-sizing capacity and using correct brands in the different markets. The focus would also be on the SAA brand, on African growth and network optimisation and on growth in regional market, by redeploying SAA capacity from the domestic market. It was important to take into consideration that there was a potential for growth in the domestic market by using the low cost segment like Mango. The revenue forecasts were significantly affected by external factors like market and policy impacts.

Ms Yakhe Kwinana, Chairperson of Audit, SAA, stated that the focus on cost reduction should be looked at in the context that airline unit costs were permanently under pressure, especially with the "commoditisation" of the market. SAA had been driving a successful cost Compression Programme since 2013, with R2.2 billion savings achieved to date. SAA had also achieved a 17% reduction in non-fuel unit costs over the past three years and would continue its drive to achieve an additional 13% reduction in the next three years. She described some of the key focus points on cost reductions. These mainly included aircraft cost reduction, by negotiating on new leases and current lease extensions, and a people cost reduction prioritised on headcount rationalisation, which was still in progress. There had been a realisation of significant procurement contract savings and maintenance contract negotiations, and there had been improvement in aircraft utilisation. SAA was planning to save an additional R2 billion or more, for the next three years, as part of its plan to convert the current Cost Compression Programme into a cost compression culture.

Ms Kwinana indicated that SAA had been operating in a difficult environment in the financial year ended on 31 March 2015. This year was marked by increased competition, revenue pressure (caused by Ebola and xenophobia) and the weakened currency, legacy impairments and financial costs. The challenges in the current financial year comprised of weakening currency, and the new immigration regulations that were likely to have unintended negative consequences, as well as intensified competition.

Although SAA was still making a loss, its year-to-date operating results had improved by 43% year on year. The revenue levels were 11% below the prior year, caused by a significant drop in average fares across the industry on the back of the lower oil price, competition and the operating environment. The operating cost was lower and well controlled as expenditure was 9% lower year on year, and this was again assisted by continued Cost Compression and lower Brent price. The interest charge had increased significantly, due to increased reliance on debt to meet working capital requirements.

Ms Myeni concluded by saying that SAA was still facing challenges, as indicated in the presentation and these included weakened currency, intensified competition in the industry and unintended consequences of the immigration and visa regulations, current capital structure and leadership instability. However, there was also a good story to be told, and this included the fact that SAA has been rated as the best full service airline in Africa, whilst Mango had been rated as the best Low Cost Carrier (LCC). There had been an optimisation of network and fleet, a cost compression culture has been embedded, and operating performance was improving. The LTTS was refined and its implementation still continued, in a quest to ensure that SAA was able to operate sustainably.

Discussion

Mr D Maynier (DA) welcomed the presentation on the SAA corporate strategy. One of the main issues that came out strongly was leadership instability and it seemed that the Chairperson of the Board was "ground-zero" on the leadership at SAA. He suggested that it would be in the public interest and in the interests of SAA for the Chairperson to resign. He wanted to know if the Chairperson was willing to announce her resignation today, as he asserted that all the challenges at SAA emanated from leadership instability. He asked if there was




a process under way to recruit a permanent Chief Executive Officer (CEO) who had experience and expertise in the airline industry, so as to be able to turn SAA around.

Mr Maynier wanted to know more about the Emirates deal. It was in the public domain that in June 2015, there was a deal on the streamlining of routes terminated, although it could have contributed R1.7 billion to the revenue of SAA. It was alleged that the Chairperson of the Board received a call from President Zuma and then instructed the Acting Chief Executive Officer (CEO), Ms Thuli Mpshe, to terminate the deal hours before it was due to be signed. Everyone wanted to know whether what had been alleged, in the public domain, was indeed correct, and if it was correct, then the Committee should know about the reasons for the termination of the deal.

Mr A Lees (DA) wanted to know about the financial plan on the turnaround strategy, with specific time lines. All the plans included the financial plan for the generation of the profit. The high cost of bringing the aircraft conditions up to scratch after the end of the aircraft life needed to be explained. He wanted to know more about the financial impact of the new visa regulations on the operation of SAA, and how large this problem was likely to be.

Ms P Kekana (ANC) welcomed the presentation and highlighted that the Committee needed to base every argument on solid facts and not on rumours and media tabloids, especially in relation to the Emirates deal. The cost-cutting measures seemed to focus on factors that largely contributed to the losses, including the retrenchment of personnel or workers, but did not seem to pay sufficient attention to the smaller points, like the value for money on the outsourcing of food and beverages, especially wine and bottles of water. It was important to check if there was a shareholder compact at SAA and whether this shareholder compact was carefully monitored. There was a growing concern about the fact that most of the officials at SAA were in acting positions. She pointed out that an ailing institution like SAA needed to have permanent officials to rectify the problem of leadership instability.

Ms Kekana said that it was evident that Mango was becoming profitable at the expense of SAA, especially on the route between Cape Town and eThekweni, and there was a general feeling that SAA could also become profitable in this route. It was impressive to hear that SAA was planning a route to the African continent but it was not clear at the moment on how this vision could be realised in order to increase the revenue. She suggested that the Committee should have a meeting with the Minister of Finance, together with the Board of SAA, on the issue of the shareholder compact and stable leadership, so that the institution could be able to operate sustainably.

Ms T Tobias (ANC) mentioned that the main difficulty about governing was the need to prioritise implementation. Others could question what had been implemented, and it was possible to encounter problems during the implementation. Members' questions were directed to trying to assist SAA in unlocking the crippling challenges, and it would not be helpful to pretend that there were no challenges in the institution at the moment. She wanted to know if SAA had negotiated the fuel price with its supplier as the fluctuation of fuel price was likely to impact on the expenditure of the institution. It was impossible for SAA to rely on the NT for the equity injection, in order to be operational, as the institution needed to do its own projections even before the equity injection and work out how to survive in times of limited injections. It must draw a financial plan in the event of economic meltdown.

Ms Tobias thought that the reduction in the outsourcing of food and beverages would be likely not to have a major impact on the institution, but the Committee should be provided with the financial expenditure on that aspect. There should be a marketing strategy that would entice the consumers to choose SAA out of other airlines, including having a stable clientele. It was absurd that British Airways was not just running international flights but also local flights, whilst the same could not be said about SAA in Britain. It was still unclear how South Africa came to enter into such nonsensical agreements that sought to undermine the operation of local airlines, as the country was losing the market share. The issue of visa regulations was a new phenomenon and she questioned whether it could really be having a major impact on SAA, as the institution



had already been losing billions in the past financial years. She pointed out that the presentation was silent on the marketing strategy to be used by SAA. The reality was that the institution was losing money and its customers. It was impressive to see that Mango was offering free wifi, but the downside was that no food was included in the fare.

Ms D Van Rooyen (ANC) welcomed the presentation that had been made by SAA and then asked about the impact of the equity injection on the balance sheet of the institution, and the adequacy of the stop-gap measures that had been implemented, especially in ensuring that the turnaround envisaged was in fact realised. In a simplistic form, his question was asking if it was possible for SAA to be turned around without the equity injection from government. The presentation was particularly silent on the cost that had been incurred as a result of not partaking in non-commercial activities.

He requested information in compliance to Broad-Based Black Economic Empowerment (B-BBEE) and how the role of the turnaround package was realised within SAA.

Mr F Shivambu (EFF) asked about the number of personnel who were likely to be retrenched because of the cost-containment measures that had been introduced. It would be important for the Committee to get clear information on the content of the Emirates deal, and the reason for its termination, as the presentation was disappointingly silent on the matter. He wanted to know if there was any truth to the story that SAA was selling its cargo to Bidvest and if there was a possible retrenchment in this section as well. The Committee needed to know about the internal procurement policy of SAA, as most of the goods and services that were utilised in the flights were imported from Denmark, and the priority of SAA should be to source those services inside the country. The presentation should have provided a breakdown of the information on the black industrialists that were doing business with SAA, and the possibility of availing opportunities to women-owned corporations or those with disabilities. It might be true that there were challenges of weakened currency, visa regulations and external matters that could be taken into consideration. However, there were also internal factors, including the fact that the Chairperson of the Board of SAA was too powerful and was capable of firing and hiring anyone as if SAA was a private company. This was the person who was supposed to be held accountable for the leadership instability in the institution. It seemed that the Members of the ANC wanted to defend the institution, despite evidence that it was ailing.

Dr M Khoza (DA) doubted if the leadership and management of the SAA was aware of the magnitude of the problem at SAA, and said that the turnaround strategy was unlikely to succeed without identifying the root causes of all the challenges that had been identified. The presentation was not clear as to exactly how the current turnaround strategy was different from the previous turnaround strategies that had been implemented in the past. The presentation should have provided a hierarchy of the cost-drivers in SAA so that Members could really understand the intensity of the problem. It would have been useful if Members were provided with at least five key root causes of the problems at SAA and the strategy in place to address those specific challenges. SAA was operating in a highly competitive environment and therefore it was imperative for the Committee to know about the areas that needed to be prioritised, so as to maximise on profit. It was really disappointing to see that the presentation largely focused on the symptoms and not the real causes, and the turnaround strategy usually comes after realisation that the institution was operating at a loss.

Ms D Mahlangu (ANC) mentioned that perhaps part of the reasons why SAA leadership seemed to be oblivious to the magnitude of the problem in the institution was because there was a guarantee from government that SAA would be bailed out. The issue of leadership instability was the main problem that needed to be addressed. The current Board was an interim one and the National Treasury needed to do the honourable thing and appoint competent and experienced people who would take the institution forward. She wanted to know if there was a strategy in place to execute the cost-cutting measures that had been implemented in the context of possible job losses. SAA was operating in a highly competitive environment and it was impossible to only rely on loyalty of consumers in order to generate sustainable profit. It was high time that the Board looked at things that had been done by other profitable airlines like Mango. There was a general sense that the Board was less worried about the problems in SAA, despite the fact that it mentioned that there would be a reduction on the cost; but there should be a focus on the improvement of the quality of service that

is offered to its consumers.

The Chairperson appreciated that there was an overwhelming consensus from Members on the number of challenges that had been mentioned today around SAA. It was indeed correct that the leadership and the Board of SAA seemed to be unaware of the gravity of the challenges at SAA and this was the matter that needed to be addressed. It was completely unacceptable for Members to be briefed on the turnaround strategy without any mention on the difference between the previous and the current turnaround strategies, to be able to see what relationships or differences there were between these strategies. He supported the suggestion to write to the Minister of Finance on the finalisation of the shareholder compact, as the shareholder compact was used to evaluate the progress that had been made by an entity. It would be impossible to evaluate the performance of SAA without the strategic plan and Annual Performance Plan (APP) of the previous financial year.

The Chairperson wanted to make it clear that it was not possible to blame the current leadership for the problems that had been created by the previous Board members, and government and Parliament needed to take some measure of responsibility, especially on the failure to carry out the oversight role effectively. The Committee would need to know about the progress that had been made on the Shareholder Management Bill, to define the respective roles of Parliament and the Executive of the State-Owned Entities (SOEs), as it was difficult to exercise an effective oversight at SAA at the moment. The Board was certainly not properly prepared for its appearance before the Committee today. Some of the questions that had been asked by Members should have been addressed in the presentation itself and it was irrelevant whether those questions came from the media or the public domain. He agreed that it was indeed absurd that British Airways was not just operating international flights but also local flights but the same could not be said about SAA operating locally in Britain. It was still unclear how South Africa had got itself into such agreements that sought to undermine the operation of local airlines, as the country was losing a market share.

The Chairperson said that Mango had been a remarkable success and part of the reason for this was not because this was a low cost carrier, but because of the way the carrier was managed and governed. He suggested that Members of Parliament (MPs) needed to use Mango as part of the cost-cutting measures that had been introduced by NT. The issue of visa regulations was indeed very recent and therefore it was unlikely to have had a significant financial impact on SAA, and Members had correctly pointed out that the institution had been operating at a loss even before the introduction of the visa regulations. The statistics that had been released by the Department of Tourism (DoT) pointed out that tourist arrivals in the country were higher than the previous year.

Ms Myeni assured Members that the Board was concerned about what was happening at SAA and the presentation was based on the instruction that had been provided by the Committee as to what matters should be covered, including those that were in the public domain or media. There was a general understanding of the fact that SAA was operating under a competitive environment. She wanted to correct the statement that the current Board was an interim board, for this was a Board that was taking decisions with the understanding that there were responsibilities to be executed. There were capable individuals within the Board and it did have the potential to execute the mandate of [REDACTED]. The turnaround strategy was developed by the leadership of SAA in consultation with the Board. The diagnostic review that was done by the Department of Public Enterprises (DPE) focused on leadership issues, historical agreements that were signed in the past and other factors that were crippling the institution.

Ms Myeni indicated that SAA was paying almost R2 billion per annum for the salaries of the pilots and this was part of the agreements that the Board was trying its utmost to unbundle, as they were crippling the operation of the institution. However, it was almost impossible for the Board to try to review those agreements, as they were private arrangements. It must be pointed out that SAA had a non-Executive Board, meaning the Board met four times a year and also met from time to time when there were committee meetings. The delegation was to management, to run the business. The airline had always been bailed out by government, through cash injections, and the institution was dealing with a depleted balance sheet which remained the major concern of the Board.



Ms Myeni highlighted that the decisions that had been taken by the previous Board had an impact on the operation of the airline and these were some of the issues that the current Board also needed to deal with moving forward. The SAA used to own two aircraft but in 2001, the previous Board took the decision to sell those aircraft and then leased them back to SAA, in order to generate more revenue and this was still one of those decisions that were affecting the current Board. It was clear that this decision had a crippling impact on the airline, as it has already been indicated that one of the major cost drivers at SAA was the leasing of the aircraft, more so since this was paid in a foreign currency and the market fluctuation was impacting badly on the operation of the institution. The majority of the challenges at SAA were legacy issues and it would be unfair to blame the current Board for the decisions and agreements that had been taken and ratified by the previous Board. The Board had sat down and applied its mind and decided to negotiate with the aircraft leasing company, owned by South African companies, and the Board had already started negotiations in order to ensure that SAA operated in a sustainable manner.

Ms Myeni assured Members that SAA was paying its bills without any default and the airline was paying one of the highest land costs on a monthly basis, a good premium for the Air Traffic Control (ATC), and was servicing all the debts, under these difficult conditions. The Board would still require the Committee to discuss the State Aviation Policy Framework, especially on the next engagement that was suggested by Members. The whole State Aviation Policy Framework came about when the Board was developing the turnaround strategy. This was to address the fact that government departments were operating in isolation of each other. The visa regulations, the landing fees, the fact that the Department of Transport (DoT) was able to offer licenses to the competing airlines, and bad landing slots, and support to Brazil Russia India China and South Africa (BRICS) were all challenges that could be addressed through cooperation between government departments.

Ms Myeni indicated that SAA would be doing its business in an unusual way. In regard to the analysis on the Beijing-China route, it was discovered that the airline was losing R30 million per month. There should be a requirement to undertake an approval process. South Africa benefited immensely from the Beijing-China route, especially on tourism, and there were many investors from China, therefore the route had a developmental agenda for South Africa, but not as substantial a benefit on the operation of the airline. The Board had requested that the airline needed to also get a share of the benefits from the route, as the country had made more than R90 billion in terms of development and tourism. SAA was not only operating to be profitable but in order to be able to break down all the boundaries that were hampering the development of the institution, in order to facilitate tourism and development for South Africa.

In regard to the impact of the new regulations, Ms Myeni noted that SAA has denied seats to about 400 people in August who were departing from the country, because of the new visa regulations but the amount that was lost by SAA on the visa regulations was unknown at the moment. There were other airlines who owned airports, and other airlines that co-owned jet fuel plants, and others had tax leases. SAA was contributing about R9 billion to the country's GDP but still paid over R6 billion to the Receiver of Revenue without any default.

Mr Maynier interrupted at this point and questioned whether Ms Myeni was answering questions asked by the Committee. Members had asked specific questions and they were expecting specific answers.

The Chairperson indicated that the Chairperson of the Board was at this point giving an overview of the questions and concerns that had been raised by Members, and all the questions that had been asked would be responded to, as this was an obligation.

Ms Myeni continued that the Board was cognisant of the fact that the issues in the public domain needed to be attended to. The changing of leadership was likely to impact on the turnaround strategy that had been implemented and the challenge had always been on the implementation of the turnaround strategy. The current Board had taken into consideration all the previous turnaround strategies that had been implemented and had taken into account all the relevant matters which could be used in the new turnaround strategy. The new turnaround strategy was done in consultation with the stakeholders of SAA, and there had been a workshop as



part of being inclusive. The Board received the proposal of Emirates airline in January 2015 and the management was running the whole process. It must be appreciated that SAA already had a relationship with Emirates. The Board had raised a concern about the fact that the Emirates deal fell within the own space that was delegated to Emirates, but this was to ensure that there are all the approval processes that are entered into.

Mr Maynier wanted to know if the Chairperson did receive a call from President Zuma and then instructed the Acting CEO, Ms Thuli Mpshe, to terminate the deal hours before it was due to be signed, as had been alleged in the media.

Ms Kekana interrupted and stated that this was not a commission of inquiry and therefore it was improper to reduce the engagement to statements based on rumours.

Dr Khoza asked whether the question that had been asked by Mr Maynier had any relevance to the agenda that was being discussed today. The understanding was that the Committee was focused on the turnaround strategy of SAA.

Ms Tobias corrected that the executive was supposed to respond to all the questions that would be asked by Members, and it was irrelevant whether they were directed to what was on the agenda or not.

Ms Myeni responded that in relation to the question on the Emirates deal, there was sensitivity on the deal, especially when taking into consideration of the Memorandum of Understanding (MoU). She suggested that the Committee could be briefed, in the next engagement, on the details that emerged from the deal. The Board and Management were aligned in terms of what benefit could be derived from the deal by signing the MoU and on the need to scrutinise how the deal could assist in the operation of SAA under the current ailing environment. The issue of jet fuel was one of the cost drivers and it was a concern for the Board to realise that SAA was paying a high amount on jet fuel but it was difficult for the Board to negotiate these prices as they were regulated. It was often very difficult to introduce new ways of doing things in the industry, and this was where the name-calling from the media and the general public emanated, especially in regard to the introduction of unpopular decisions.

Ms Myeni added that SAA was operating in the same competitive space as other airlines like Mango but the institution continued to operate at a loss, and this was the major concern from the Board. It was indeed a concern that British Airways was allowed to operate in local flights but the same could not be said about SAA in Britain, and this was where the Department of Transport needed to introduce regulations which would protect the local airlines.

[REDACTED]. SAA did have a shareholder compact and the management had provided its view of the impact on the matter as well as the comments, and the NT would be getting the shareholder compact before the end of this week. There was no way that the institution could operate without the shareholder compact. SAA would be receiving cash injection of R8.5 billion and this would assist in ensuring that the airline was able to operate in a fair environment and profitable way.

The information on the sponsoring of events like festivals, rugby and soccer tournaments was within the knowledge of management and not the Board, but it was important to highlight that SAA was no longer sponsoring soccer and rugby tournaments or the Jazz Festivals, as this was part of the cost containment measures. The cost containment measures that had been implemented by the Board were not focused on the retrenchment of personnel, but on trying to ensure that SAA was able to operate in a sustainable manner.

Ms Kwinana responded that the Board was happy that Mango was part of SAA and was doing very well and this could be attributed to favourable conditions, like the fact that Mango was partly subsidised by SAA. There were also contracts between SAA and Mango which were favourable to Mango. The question that still needed to be answered was whether Mango could be able to operate independently without SAA, especially when



considering all the favourable contracts and subsidies. The Board was not complaining about the fact that Mango was doing well as it was a shareholder of SAA.

She noted that the delegation was responsible for the procurement process of food and beverages and there was a catering tender that was awarded to a German company. The procurement process for awarding the tender for food was focused on prices and other technicalities.

Mr Shivambu expressed a concern that SAA had awarded a catering tender to a German company as the tender was supposed to have been awarded to a local company.

Dr Masimba Dahwa, Chief Procurement Officer, SAA, responded that due process was followed in the awarding of the tender for food to be served on the airline and there were various issues that were looked at which informed the decision to award the tender to a German company.

The Chairperson requested the Board to be clear and precise on the response in regard to the question on the catering tender, that was alleged to have been awarded to a German company.

Dr Dahwa replied that the Board started by putting together a business case, which is the main driver of any procurement process. Procurement came right at the end of the process. The Board followed the due process until the tender was awarded to a German company, as the tender did not favour its own subsidiaries. The contract for the catering was worth R85 million.

Ms Myeni clarified that the tender that had been awarded to the Germany Company was not taking away the services from SA Chefs, as this company still continued to provide catering services to SAA, on board and on flight. This new tender was a single one, that was confined to servicing the lounge in ORT International Airport.

Mr N Nkwankwa (UDM) indicated that most of the questions that had been asked by Members were asked also during the previous engagement and the Committee was provided with the same responses. It was completely unacceptable for South Africans to agree to the suggestion that there were no South African companies that could have been awarded the tender for food.

The Chairperson agreed that it was indeed correct that some of the questions that had been asked by Members were asked before, when SAA was under the scrutiny of the Portfolio Committee on Public Enterprises. The Board of SAA was still providing the same responses. The Committee would like to meet with the Minister of Finance, the Portfolio Committee on Transport and Public Enterprises in the next engagement with SAA, in order to discuss issues that had been raised by the Board. The Committee would also like to see the shareholder compact that had been signed, before the next engagement. The Board would be given all the questions that still required clarity from Members and these should be responded to in writing. He concluded that the reason the Presidency had moved SAA from being overseen by the Department of Public Enterprises to being overseen by the NT was to ensure that NT could exercise an effective oversight role. However, this was not happening at the moment.

The meeting was adjourned.

A large, stylized handwritten signature is located in the bottom right corner of the page. Below it, there are some smaller, less distinct handwritten marks or initials.

Annexure “TM12”



Andrew A. Keartland

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Sent: Thursday, 03 September 2015 17:34
To: Duduzile Myeni; dudum@jacobzumafoundation.org.za
Cc: Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); John Tambi (johnt@nepad.org); Yakhe Kwinana2; Yakhe Kwinana; Wolf Meyer
Subject: FW: Notification to the Board on Catering Services award toSkychefs August 2015.pdf
Attachments: Notification to the Board on Catering Services award toSkychefs August 2015.pdf

Dear Chairperson

I refer to the e-mail trail below and I would like to address the points raised, as follows:

1. ***"First and foremost, this is not in line with what we are doing at AirChefs / AirChefs is struggling and I announced my concerns as the Shareholder"***

The award of the lounge catering contract to LSG does not in any way affect the current process being undertaken to "divest" Air Chefs. The lounge service contract represents 4.265% of Air Chefs' total annual revenue. As per the attached notification to the Board, there will be negligible revenue loss for Air Chefs with an estimated R1, 8m net per annum to Air Chefs as per the current CVP and rates related thereto.

2. ***"As the Shareholder, we have to review this submission which was not submitted to the Board for noting" and "Acting CEO, kindly hold this process until the Shareholder of AirChefs apply it's mind"***

The procurement process was initiated during May 2014. A letter of award has already been issued to LSG dated 21 August 2015 and SAA's investment partner (Investec Bank) for the refurbishment of our lounges, has been notified. LSG has therefore commenced with the implementation of the operational requirements as per the services required effective 1 September 2015. The latter is in preparation for the launch of the ORTIA domestic lounge, scheduled for 29 September 2015. The afore-mentioned was pursuant to the recommendation made by the BAC after due process has been followed and approved by myself in line with my delegated authority. Any holding and/or cancellation of the award could result in litigation and financial exposure against SAA.

Further to the above response and should it be requested by the Board, a further submission can be made available highlighting the legal, reputational and business continuity risks presented by the suggested holding and/or cancellation of the award.

I sincerely hope that the above points raised shed light on the circumstances in question.

Regards,

Thuli Mpshe | Acting CEO | Corporate

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Duduzile Myeni

Sent: 01 September 2015 10:07 AM

To: Tony Dixon; Yakhe Kwinana2; johnt@nepad.org; Thuli Mpshe; Yakhe Kwinana; Wolf Meyer

Subject: Notification to the Board on Catering Services award toSkychefs August 2015.pdf

Colleagues

I am sending this to you. First and foremost, this is not inline with what we are doing at AirChefs. As the Shareholder, we have to review this submission which was not submitted to the Board for noting. AirChefs is struggling and I announced my concerns as the Shareholder.

Acting CEO, kindly hold this process until the Shareholder of AirChefs apply it's mind.

Regards

Ms Dudu Myeni

Phone :035 789 5499

Email : dudumyeni@telkomsa.net

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SAA Submission
A Private and Confidential
For internal use only

TO:	SAA BOARD OF DIRECTORS
FROM:	Acting Chief Executive Officer
DATE:	20 AUGUST 2015

FOR THE SAA BOARD OF DIRECTORS TO NOTE THE AWARD OF RFP/GSM044/2015 FOR THE PROVISION OF CATERING SERVICES FOR SAA PREMIUM LOUNGES AT OR TAMBO INTERNATIONAL AIRPORT (ORTIA) TO LSG SKYCHEFS SOUTH AFRICA (PTY) LTD.

PURPOSE

To notify the SAA Board of Directors of the awarding of the Provisioning of Catering Services for SAA Premium Lounges at OR Tambo International to LSG Skychefs South Africa (Pty) Ltd, for a period of three years (i.e. from 01 September 2015 to 31 August 2018), at an estimated amount of R85 818 793.66, inclusive of VAT, further to the finalisation of a due tender process. Notwithstanding that the award is within the Acting CEO's DoA, the Board is duly notified of the award due to the fact that a third party will be performing services previously rendered by SAA's subsidiary company, Air Chefs.

BACKGROUND

SAA's lounge customer value proposition (product and service) has to date been provided by SAA's subsidiary, Air Chefs. The food and beverages on offer are specified in line with customer needs, preferences and expectations. Over time, SAA has experienced a severe deterioration in the quality and standard of product and service delivery offered by Air Chefs, based on premium customer complaints in respect of the customer value proposition at ORTIA's lounges, which are ranked as high-value customer touch points.

The negative customer experience has not only detrimentally affected SAA from a reputational and commercial perspective, but has also resulted in SAA's premium customers beginning to use the SLOW lounge (British Airways customer value proposition), which is SAA's competitor.

Considering that the SAA Voyager member base spend was R 3.99 billion in FY15 (*which constituted 23.19% of SAA Passenger Revenue, excluding fuel levies and surcharges, i.e. the base fare*), from a strategic risk perspective, it became necessary for decisive action to be taken to address the customer value proposition shortfalls for this premium customer segment in order to ensure customer retention. Several interactions were held between SAA and Air Chefs to find means to improve the level of service delivery achieved however, and notwithstanding these efforts, no improved results were recorded. SAA was, accordingly,

Directors

DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

A STAR ALLIANCE MEMBER 

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

faced with no option but to take a decision to go out on a confined tender to achieve the desired customer value proposition expected for this premium customer segment.

The decision was further enhanced by the need to present a world-class product, same which was a critical deliverable in the agreement with between SAA and Investec Bank (SAA's partner who provided the necessary capital investment for the overhaul and upgrade of the SAA premium lounges).

Responses to this RFP were received from Air Chefs, LSG SkycheFs and Dnata - Newrest. Food Direction and Pinnacle Incubator Hub declined the request to bid.

Due procurement process was followed in respect of which all received responses were evaluated. In this regard, the incumbent current service provider, Air Chefs, failed to meet the initial minimum threshold in the tender and was unable to proceed to further evaluation stages.

FINANCIAL IMPACT

	LSG SkycheFs South Africa (Pty) Ltd: initial offer	LSG SkycheFs South Africa (Pty) Ltd: Final offer	DNata-Newrest (Pty) Ltd: Initial offer	DNata-Newrest (Pty) Ltd: Final offer
Bid Price (negotiated)	R88 358 480.76	R85 818 793.66	R111 336 938.17	R111 336 938.17
Score for Pricing (90)	Incl VAT	Incl VAT	Incl VAT	Incl VAT

- The final offer presented by LSG SkycheFs South Africa (Pty) Ltd is inclusive of VAT.
- CPI increase in year two of the contract; the impact is to be shared equally 50% (average of the preceding 12 months).
- CPI increase in year three of the contract; LSG SkycheFs South Africa (Pty) Ltd will cover 25% of the CPI impact while SAA will cover the remaining 75% (average of the preceding 12 months).

A saving of R2 539 687.10 was achieved after negotiations with the recommended bidder.

SAA has projected approximately 474 500 passengers in lounges per annum. There is a possibility of growth in the passenger number year on year should new airlines contract to use SAA lounges. Should this take place; LSG SkycheFs South Africa (Pty) Ltd has offered the following passenger Volume Discount;

Annual Base	474 500	
Discount Percentage	Pax From	Pax to
2% Discount	480 000	500 000
3% Discount	500 001	520 000
4% Discount	520 001	540 000
5% Discount	540 001	560 000
6% Discount	560 001	Onwards

Note: The discount will only be applicable to the per passenger price.

Directors

DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

A STAR ALLIANCE MEMBER 

Company Secretary – Ruth Kibruka

South African Airways SOC Ltd

Reg. No. 1997/022444/30




It should also be noted that, as a result of the award to LSG Skycheffs South Africa (Pty) Ltd, there will be a revenue loss to Air Cheffs (estimated at R18 million per annum) as well as a negligible negative net profit impact of R1.8 million per annum.

STRATEGIC IMPACT

In electing to go out on tender, the business carefully considered the strategic implications of Air Cheffs possibly not being selected as the successful bidder vis-a-vis the business imperative of the retention of premium customers in a highly competitive market. In addition, due consideration was given to any adverse market perceptions created through electing to tender for lounge services, thus carving out a small portion of services rendered by Air Cheffs in relation to the total SAA account.

FINAL RECOMMENDATION

It is hereby requested that the SAA Board of Directors note the final award to LSG Skycheffs South Africa (Pty) Ltd, for a period of three years (i.e. from 01 September 2015 to 31 August 2018), at an estimated amount of R85 818 793.66, inclusive of VAT. In this regard, and further to a lawful tender process, a third party will be performing services previously rendered by SAA's subsidiary company, Air Cheffs.

SIGNATURES

Acting Chief Executive Officer

Thuli Mphahlele

Chief Finance Officer

Directors

DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER 

Annexure “TM13”



Trust you find this in order.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com

6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Duduzile Myeni

Sent: 09 September 2015 05:13 PM

To: Thuli Mpshe

Cc: Dudu Myeni; Yakhe Kwinana2; Yakhe Kwinana; Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); John Tambi (johnt@nepad.org); Ruth Kibuuka

Subject: Notification to the Board on Catering Services award to Skycheffs

Dear Acting CEO


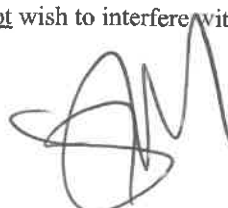
Thank you for your response.

I think it is important to make the Board's intentions on this matter quite clear.

The Board does not want to interfere with due process which belongs and is better managed by the executive. The Board is however particularly more interested in the principles applied in this contract and award.

Having said that, where the Board feels that implementation does not take proper consideration of pertinent principles, then it will bring these to your attention as the Acting CEO. At the meeting the Board did precisely that. It raised a concern that the awarding of this contract might have unintended consequences that affect certain strategic considerations. Examples could mean, Supporting South African businesses, enhancing local employment, considering the impact on our own subsidiaries, here being (Air Cheffs) are amongst these.. At the Board meeting you were not then able to provide assurance on these matters. You did not even bring any fact to the discussion pertaining this contract. Hence the Board asked that to the extent possible we would like the executives to suspend further consideration on this process until we were provided with information on these concerns. This was on 26 August at the Board Meeting. No one was on site.

If, as you now inform us, that a contract has been awarded then the Board does not wish to interfere with that legal process. We did not have that impression at the Board meeting.



Regardless however of the state of this tender the Board requires answers to its concerns. Some of these you have provided answers to below. There are other questions outstanding and your answers have raised others.

These must be provided urgently. The Board requires a comprehensive review of the awarding of this tender. I am now particularly interested on what grounds Air Chefs failed to meet the initial threshold and was eliminated from evaluation further. Regardless of the outcome of this tender that must surely be a major concern of the Board.

I also believe that we need to be quite clear on another issue raised by you in your email. The Board delegates authority to the executive to implement certain activities. The Delegations Policy is a Board Policy. The Board remains legally (per the PFMA) accountable for the implementation of decisions under that policy. Having delegated this authority does not limit the Board in addressing issues arising from the execution of these and it does not mean the Board may not review the delegation limits if necessary. The fact that this matter was within your delegation of authority does not prevent the Board in questioning the matter.

In conclusion if the company has lawfully committed itself to the successful bidder then we do not wish to interfere with that process. However the Board urgently requires a comprehensive review of the awarding of this contract and to better understand the application of the decision making process. Would you please arrange for that to be provided before end of day 15th September 2015. If you require any clarification of what is required please do not hesitate to contact me.

AirChefs did raise many objections, questioning the motive of this. But were defeated. We have to get answers as to why, and by who was this being done.

Regards

Ms Dudu Myeni

Phone :035 789 5499

Email : dudumyeni@telkomsa.net

Annexure “TM14”



Andrew A. Keartland

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Sent: Monday, 28 September 2015 16:33
To: Duduzile Myeni; Dudu Myeni; Yakhe Kwinana2; Yakhe Kwinana; Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); John Tambi (johnt@nepad.org)
Cc: Ruth Kibuuka; GROUP EXCO COMMITTEE; Sylvain Bosc; Wolf Meyer; Lusanda Jiya; Tleli Makhetha; Phinda Ncala; Nivy Moodley; Bev Kok; Zuks Ramasia; Mabana Makhakhe; Masimba Dahwa; Ursula Fikelepi; Siyakhula Vilakazi; Josua du Plessis
Subject: FW: Notification to the Board on Catering Services award toSkychefs August 2015.pdf
Attachments: Legal Memorandum - Lounge Catering (7 Sept 2015).pdf; Lounge Catering Services ORTIA Annexures A to G.pdf; Lounge catering services legal opinion fnl signed.pdf

Dear Board Members and Colleagues

Please note the trailing emails in respect of the lounge discussion today.

Please familiarise yourself with the contents thereof in particular the legal implication and risks associated with the decision.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Thuli Mpshe
Sent: 08 September 2015 08:56 PM
To: M Dudu (dudumyeni@telkomsa.net); 'Dudu Myeni'
Cc: Yakhe Kwinana2; Yakhe Kwinana; Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); John Tambi (johnt@nepad.org); Ruth Kibuuka; Ursula Fikelepi
Subject: FW: Notification to the Board on Catering Services award toSkychefs August 2015.pdf

Dear Chairperson,

At the outset, I wish to assure the members of the Board that my responses to date, in respect of the subject matter, were guided and submitted after thorough internal consultation with all relevant SAA stakeholders.

The concerns raised by the Board in the preceding e-mails have been duly and respectfully noted. Without derogation, I wish to further respond as follows:

1. Management acknowledges and appreciates the board's right and prerogative to overturn and or rescind management's decisions. Before management can lawfully proceed with a cancelation of the awarded tender to LSG Sky Chefs South Africa (Pty) Ltd, the Board will need to take a formal resolution, in accordance with the prescribed SAA governance framework.
2. There is no governance directive and/or policy in place necessitating a matter reserved for the SAA Group CEO (as per the Company Delegation of Authority) to be circulated for prior notification and/or approval to the SAA Board, prior to the commencement of a tender process, for services performed by any SAA subsidiary.




3. Notwithstanding the latter, on 20 August 2015, in my capacity as acting CEO, I formally requested that notification of the award be prepared and submitted to the Board for completeness and transparency.
4. As per the Board notification of 20 August 2015, in electing to go out on tender, the business carefully considered the strategic implications of Air Chefs possibly not being selected as the successful bidder vis-a-vis the business imperative of the retention of premium customers in a highly competitive market. In addition, due consideration was given to any adverse market perceptions created through electing to tender for lounge services, thus carving 4.265% of services rendered by Air Chefs in relation to their total SAA account.
5. As the Board has correctly noted, there is no indication that the Board was notified of the tender process prior to its formal initiation on 2 November 2014. In this regard, the acting CEO of Air Chefs attempted to notify his Board in November 2014, but was unsuccessful due to being unable to proceed with a duly constituted meeting of the Air Chefs Board. It is, however, on record that during February 2015, the acting CEO of Air Chefs reported to his Board of SAA's intention to proceed with a confined tender process and, further, that Air Chefs will prepare a response thereto.
6. As per the Board notification of 20 August 2015, responses to the RFP were received from Air Chefs, LSG Sky Chefs and Dnata - Newrest. A lawful and duly constituted procurement process was followed in respect of which all received responses were properly evaluated. In this regard, it must be noted that Air Chefs failed to meet the initial minimum threshold for evaluation in the tender and was lawfully precluded from proceeding to further stages of evaluation.
7. There are no job losses emanating from the award of services to LSG Sky Chefs as any impacted Air Chefs employees would be transferred to the successful bidder (*as per the conditions set-out in the tender document*), in accordance with Section 197 of the Labour Relations Act, 1995 (LRA).
8. Notwithstanding that the LSG Group is a collection of companies under the German registered LSG Lufthansa Service Holding AG (*a 100% subsidiary of Deutsche Lufthansa*), the lounge catering services have been awarded to LSG Sky Chefs South Africa (Pty) Ltd, a South African registered entity which locally sources and produces products procured by SAA.
9. Accordingly, and in disposing of its obligations to the Board, management wishes to highlight the legal implications inherent to the Board's decision to cancel the award of the services – having regard in particular to the legal requirement for the Board to be fully apprised of all relevant details in reaching a decision of this nature. Please kindly refer to the attached Legal Memorandum and Annexures thereto.

We trust you find this in order.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Duduzile Myeni

Sent: 03 September 2015 10:59 PM

To: Yakhe Kwinana

Cc: Thuli Mpshe; dudum@jacobzumafoundation.org.za; Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); John Tambi (johnt@nepad.org); Yakhe Kwinana2

Subject: Re: Notification to the Board on Catering Services award to Skychefs August 2015.pdf

Dear Colleagues

The previous Acting CEO knows well what we wanted, as the Shareholder! and this process which was started in May is contrary to our decision.

The Board, in February and March discussed outsourcing AirChefs to an outside company. The reason why we did not advertise the CEO position was based on this.

Secondly, before the commencement of the LSG, at the Board Meeting, no one made any submission or raised these things to us at the Board meeting.

A thorough investigation is fully supported as per the Audit and Risk Comm Chairperson.

The contract, without the shareholder noting this submission, should be nullified.

As the Shareholder we have a responsibility to ensure that our subsidiaries are assisted, and our decisions must be to the best interest of SAA and South Africa.

Also Acting CEO please, since you are new in your position, please consult so that you are advised correctly.

Ms Dudu Myeni

Phone :035 789 5499

Email : dudumyeni@telkomsa.net

On 03 Sep 2015, at 6:31 PM, yakhekwinana <yakhekwinana@gmail.com> wrote:

Dear A: CEO

I note that AirChefs also responded to this bid meaning that if it is not what they do, which I doubt, is something that they would be able to do.

Why was the Board not notified of this decision as per the submission.

I recommend that the award be cancelled and if they claim for damages, the letter was written on the 20th and what is it that they would have prepared between the 20th and today the 3rd, unless they knew that the tender is theirs.

I must take this opportunity to say I am very disturbed by this decision which is killing SAA subsidiary.

As the Chairperson of SAAT is making me very nervous where one day I will wake up and find out that SAA fleet is serviced and maintained by a foreign company that competed with SAAT.

My simple rhetoric question is :- if SAA and it's subsidiaries were owned by you, would you give business to your competitor even if you do exactly the same business.

Chairperson, this looks like treason and I request this to be investigated by the SIU's.

Thank you

Yakhe Kwinana

Sent from my Samsung device

----- Original message -----

From: Thuli Mpshe <ThuliMpshe@flysaa.com>

Date: 03/09/2015 17:33 (GMT+02:00)

To: Duduzile Myeni <dudumyeni@telkomsa.net>, dudum@jacobzumafoundation.org.za

Cc: "Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net)"

<tonydixon@telkomsa.net>, "John Tambi (johnt@nepad.org)" <johnt@nepad.org>, Yakhe

Kwinana2 <yakhe@kwinana.co.za>, Yakhe Kwinana <yakhekwinana@gmail.com>, Wolf

Meyer <WolfMeyer@flysaa.com>

Subject: FW: Notification to the Board on Catering Services award toSkychefs August 2015.pdf

Dear Chairperson

I refer to the e-mail trail below and I would like to address the points raised, as follows:

1. ***"First and foremost, this is not in line with what we are doing at AirChefs / AirChefs is struggling and I announced my concerns as the Shareholder"***

The award of the lounge catering contract to LSG does not in any way affect the current process being undertaken to "divest" Air Chefs. The lounge service contract represents 4.265% of Air Chefs' total annual revenue. As per the attached notification to the Board, there will be negligible revenue loss for Air Chefs with an estimated R1, 8m net per annum to Air Chefs as per the current CVP and rates related thereto.

2. ***"As the Shareholder, we have to review this submission which was not submitted to the Board for noting" and "Acting CEO, kindly hold this process until the Shareholder of AirChefs apply it's mind"***

The procurement process was initiated during May 2014. A letter of award has already been issued to LSG dated 21 August 2015 and SAA's investment partner (Investec Bank) for the refurbishment of our lounges, has been notified. LSG has therefore commenced with the implementation of the operational requirements as per the services required effective 1 September 2015. The latter is in preparation for the launch of the ORTIA domestic lounge, scheduled for 29 September 2015. The afore-mentioned was pursuant to the recommendation made by the BAC after due process has been followed and approved by myself in line with my delegated authority. Any holding and/or cancellation of the award could result in litigation and financial exposure against SAA.

Further to the above response and should it be requested by the Board, a further submission can be made available highlighting the legal, reputational and business continuity risks presented by the suggested holding and/or cancellation of the award.




I sincerely hope that the above points raised shed light on the circumstances in question.

Regards,

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com

6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Duduzile Myeni

Sent: 01 September 2015 10:07 AM

To: Tony Dixon; Yakhe Kwinana2; johnh@nepad.org; Thuli Mpshe; Yakhe Kwinana; Wolf Meyer

Subject: Notification to the Board on Catering Services award to Skychefs August 2015.pdf

Colleagues

I am sending this to you. First and foremost, this is not inline with what we are doing at AirChefs. As the Shareholder, we have to review this submission which was not submitted to the Board for noting. AirChefs is struggling and I announced my concerns as the Shareholder.

Acting CEO, kindly hold this process until the Shareholder of AirChefs apply it's mind.

Regards

Ms Dudu Myeni

Phone :035 789 5499

Email : dudumyeni@telkomsa.net

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.Should you not have access to the internet, send an e-mail to requestdisclaimer@flysaa.com and a copy will be sent to you.



To:	Acting Chief Executive Officer
And To:	Chief Procurement Officer
From:	Legal Department
Date:	07 September 2015

LOUNGE CATERING SERVICES AT OR TAMBO INTERNATIONAL AIRPORT (ORTIA)

1 PURPOSE

The purpose of the memorandum is to advise on the legal implications of the requested cancellation of the award to LSG SkyChefs South Africa (LSG) to provide catering services at the OR Tambo International Airport Lounges (ORTIA). It is not the purpose of this Memorandum to review the tender process that was followed to appoint LSG.

2 BACKGROUND

2.1 SAA entered into a Marketing Barter Partnership Agreement (the Agreement) with Investec for the refurbishment of the SAA ORTIA Domestic Lounge where Investec committed capital investment in the sum of R15 million towards the refurbishment in exchange for usage of the SAA Lounges by their private clients. Over and above the capital investment the Lounge access by Investec Private Clients is at a cost that is reconciled and paid to SAA on a monthly basis as additional revenue. In addition, Investec is currently paying SAA a cost-per-head sum (same which was implemented with the conclusion of the capital investment agreement) and which amount will increase once the refurbishment has been completed.

2.2 It is SAA's obligation under the agreement to oversee the refurbishment of the Lounge and to deliver an operational Lounge to accommodate Investec's private clients. SAA and Investec have since agreed that the Lounge would be opened on 29 September 2015.

- 2.3 One of the core service offerings at the Lounge is the catering to the passengers. SAA has to date utilised the services of its Subsidiary Air Chefs to render catering services at the Lounges. The Air Chefs contract for the provision of the catering services expired on 31 January 2015 and was extended on a month to month basis. Before the expiry of the Air Chefs contract, SAA took a business decision to go out on tender for a service provider to provide catering services in its Lounges at ORTIA. The reasons and motivation for the business decision are succinctly set out in an Exco submission dated July 2014 and was duly approved by the SAA CEO on 01 September 2014 (Annex A).
- 2.4 Upon approval of Annex A, an open tender was issued to the public 02 November 2014, however due to a change in the specification the open tender was cancelled on 27 March 2015. A new confined tender process was issued on 11 May 2015 to appoint a service provider to provide the catering services. Air Chefs, Dnata Newrest and LSG responded to the confined tender. An evaluation process was undertaken and Air Chefs failed to meet the set threshold as per the requirement and criteria prescribed for the tender and were consequently disqualified from further participation and Dnata Newrest and LSG proceeded to price evaluation (Annex B).
- 2.5 LSG emerged the preferred bidder and were recommended for appointment by the CFST (Annex C). On 14 August 2015, the BAC adjudicated on the CFST's recommendation and supported it and further recommended LSG's appointment to the Acting CEO (Annex D). On 19 August 2015, the CEO approved the appointment of LSG as per her DOA (Annex E). Pursuant to the CEO's approval, a letter of award, dated 21 August 2015, was communicated to LSG (Annex F). A kick off meeting was held with LSG on 26 August 2015 and a project plan developed and adopted by SAA and LSG to ensure a successful opening of the lounge on 29 September 2015.
- 2.6 We are advised that a submission was made on 20 August 2015 to the Board of SAA to note the appointment of LSG (Annex G). We are informed by the Acting CEO that two (2) members of the board have requested that the award be cancelled.

3 LEGISLATIVE AND LEGAL PROVISIONS

The following legislative provisions are pertinent to the proposed suspension or cancellation of the appointment of LSG.

3.1 Promotion of Administrative Justice Act 3 of 2000 (PAJA)

3.1.1 The purpose of PAJA is to promote an efficient administration and good governance and create a culture of accountability, openness and transparency in the public administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action.

3.1.2 "Administrative action" is defined under PAJA to "mean any decision, or any failure to take a decision, by-

- (a) An organ of state, when exercising a public power or performing a public function in terms of any legislation" –
- (b) A natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision.

3.1.3 A "decision" is also defined under PAJA to mean "any decision of an administrative nature made, proposed to be made, or required to be made, as the case may be, under an empowering provision, including a decision relating to making, suspending, revoking or refusing to make an order, award or determination".

3.1.4 Any person whose rights have been materially and adversely affected by administrative action is entitled to adequate reasons for such an action or decision. The Court held in the case of *Moletsane v Premier of the Free State and Another* that what would amount to "adequate" reasons shall depend on the "degree of seriousness of the administrative act".

3.1.5 An administrative action can easily be defined to mean a decision or proposed decision of an administrative nature made in terms of an

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empowering provision by an organ of state and which has an adverse effect on the rights of another person and that has a direct external legal effect. The requested suspension or cancellation of the award to LSG which award was made in terms of the PPPFA, falls squarely within the above definition. SAA is an organ of state, taking a decision on a tender awarded by SAA (administrative action) which is not specifically prohibited by PAJA and the proposed decision will if implemented have an adverse effect on LSG as the awarded service provider and has a direct external legal effect as LSG may justifiably sue SAA for damages for cancellation or repudiation of the contract already created by the award.

3.1.6 The proposed suspension of LSG's appointment will, once communicated to LSG, constitute an administrative action by SAA and LSG would be entitled to request SAA to supply adequate reasons for the suspension of its appointment to provide the catering services. Any failure by SAA to provide reasons to LSG may result in an application for judicial review of the suspension and a claim for damages against SAA.

3.2 Preferential Procurement Policy Framework Act (5 of 2000)

3.2.1 Section 217(1) of the Constitution (Act 108 of 1996) provides that the award of tenders by government or public entities must be made in accordance with a system that is "fair, equitable, transparent, competitive and cost-effective." Section 217(3) of the Constitution provides that national legislation must prescribe the framework for the implementation of any preferential policy. This is achieved through the Preferential Procurement Policy Framework Act ("PPPFA").

3.2.2 Section 2(1) (f) of the PPPFA provides that once bids have been scored in terms of the PPPFA, the contract "must be awarded to the bidder who scored the highest points, unless objective criteria...justify the award to another bidder." Regulation 9 of the PPPFA Regulations, in addition, states that an award can be made to a bidder other than the highest scorer "on reasonable and justifiable grounds."

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3.2.3 Any decision taken by SAA, accordingly, has to be taken on reasonable and justifiable grounds and is contingent on that decision-making authority to adduce proof that all applicable considerations were taken into account during its deliberations. More so, as set out in the Constitution, any such decision has to be fair, equitable, transparent, competitive and cost-effective.

3.2.4 We have not been provided with any information that applicable considerations have been provided by the Board to address the above statutory requirements.

3.3 CEO's Delegations of Authority

3.3.1 The SAA Delegation of Authority Framework (Framework) provides for the delegation of authority to the Group Chief Executive Officer of SAA from the SAA Board of Directors.

3.3.2 Section 3.2 of the Framework provides that "the DOA applies to the authority to exercise decisions which *bind* (our emphasis) SAA or a subsidiary company. It is therefore the "Master Policy" guiding decisions within the SAA Group. If there is any conflict between this DOA and other SAA policy, the provisions of this DOA will prevail".

3.3.3 In terms of the Framework, therefore the Acting CEO of SAA has the delegated authority to award the tender (as she did). Further to the conclusion of the tender process, a letter of award was issued by SAA, which action created a legitimate expectation on the part of LSG. This action limits SAA's right to cancel or suspend the award. Based on the communication of the award, LSG has been vested with an expectation to be the contracting party upon the fulfillment of any applicable condition or, at the very least, an expectation to be heard before any adverse decision can be made. SAA thus cannot, lawfully, unilaterally cancel or suspend the award made to LSG without at the very least communicating the reasons for the requested suspension and/or cancellation and without exposing itself to potential legal challenge by LSG.

3.3.4 The decision taken by the Acting CEO is legal, valid and binding on SAA and is consistent with the approved DOA.

3.3.5 The King III Report on Good Corporate Governance states that it is the CEO's function to consistently strive to achieve the company's financial and operational goals and objectives, and to ensure that the day to day business affairs of the company are properly managed within the approved framework of delegated authority.

4 CONCLUSION

4.1 The tender for catering services at SAA Lounges was procedurally and lawfully awarded to LSG. This award was in line with the PFMA and the PPPFA Regulations as well as SAA's procurement policies and procedures. As highlighted above, the cancellation and or putting on hold of the award may result in possible legal action and financial exposure against SAA.

4.2 Any decision to suspend or cancel the award of the tender by SAA would amount to administrative action, which action would need to be objectively fair, equitable, transparent, competitive and cost-effective. We have not been provided with any documentation to indicate that considerations justifying the requested cancellation accordingly were made by the Board of SAA at a duly constituted meeting of the Board and we have not been provided with minutes or copy of a resolution confirming the request as a decision of the Board. In the absence of the resolution hereof, the request could be considered invalid and stands to be set aside.

4.3 The requested decision to cancel the award undermines good corporate governance principles.

4.4 We recommend that the Acting CEO engages with the Board and to provide the Board with the background information in this memorandum with annexures to assist the Board in making an informed decision based on all the available information on the matter.

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4.5 Having considered the legal, financial and reputational risks if the Board deems the to cancel the award, appropriate a Board resolution must be communicated to management stating the reasons for the cancellation to assist management when communicating the decision to LSG and to further enable management to comply with PAJA if a request is made to SAA.

SIGNATURES:

1. Completed by:


Ephraim Lisenka (Legal Advisor)

01-08-2015
Date

2. Supported by:


PP Fikile Thabethe (HOD Legal)

2015/09/07
Date

3. Recommended by:


Ursula Fikilepi (GM: LRC)

08/09/2017
Date






SAA Submission
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To:	Acting Chief Executive Officer
And To:	Chief Procurement Officer
From:	Legal Department
Date:	07 September 2015

LOUNGE CATERING SERVICES AT OR TAMBO INTERNATIONAL AIRPORT (ORTIA)

1 PURPOSE

The purpose of this memorandum is to advise on the legal implications of the requested cancellation of the award to LSG Skychefs South Africa ("LSG") to provide catering services at the OR Tambo International Airport ("ORTIA") domestic lounge. It is not the purpose of this Memorandum to review the tender process that was followed to appoint LSG.

2 BACKGROUND

- 2.1 SAA entered into a Marketing Barter Partnership Agreement (the "**Agreement**") with Investec for the refurbishment of the SAA ORTIA domestic lounge. In terms of the Agreement, Investec committed capital investment in the sum of R15 million towards the refurbishment of the domestic lounge in exchange for the use of the lounge by Investec private banking clients. Over and above the capital investment provided by Investec, the cost of the lounge access by their private banking clients is reconciled and paid to SAA on a monthly basis as additional revenue to the airline. In addition, Investec is currently paying SAA a cost-per-head fee (same which was implemented with the conclusion of the capital investment agreement) and which amount will increase once the refurbishment has been completed.
- 2.2 It is SAA's obligation under the Agreement to oversee the refurbishment of the lounge and to deliver an operational lounge to accommodate Investec's private banking clients. SAA and Investec have since agreed that the lounge will be open to the public on 29 September 2015.



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- 2.3 One of the core service offerings at the lounge is the provision of catering services to passengers. To date, SAA has utilised the services of its subsidiary, Air Chefs, to provide catering services at all its South African domestic and international lounges. The Air Chefs contract for the provision of the catering services expired on 31 January 2015 and has since been extended on a month to month basis. Prior to the expiry of the Air Chefs contract, SAA took a business decision to issue a tender for a service provider to provide catering services in its domestic lounge at ORTIA. The reasons and motivation for the business decision are succinctly set out in an SAA Exco submission dated July 2014, same which was duly approved by the SAA CEO on 01 September 2014 (**Annex A**).
- 2.4 Upon approval of the Exco submission as aforesaid, an open tender was issued on 02 November 2014, however, due to a change in the specification, the open tender was cancelled on 27 March 2015. Subsequent thereto, a new confined tender process was issued on 11 May 2015. Air Chefs, Dnata Newrest and LSG responded to the confined tender. A duly constituted evaluation process was undertaken in which Air Chefs failed to meet the minimum set threshold as per the criteria prescribed for the tender. Consequently, Air Chefs was disqualified from further participation in the process and Dnata Newrest and LSG proceeded to the last phase of tender evaluation (that being price and BBBEE (see **Annex B**)).
- 2.5 LSG emerged as the highest scoring and preferred bidder and was recommended for appointment by the Cross Functional Sourcing Team (**Annex C**). On 14 August 2015, the SAA Bid Adjudication Committee evaluated the CFST's recommendation and resolved to support the appointment of LSG for final approval by the Acting CEO (**Annex D**) in accordance with the applicable SAA procurement framework. On 19 August 2015, the Acting CEO approved the appointment of LSG, in accordance with her Delegation of Authority (**Annex E**). Pursuant to the Acting CEO's approval, a letter of award, dated 21 August 2015, was communicated to LSG (**Annex F**). A kick off meeting was then held with LSG on 26 August 2015 and a project plan developed and adopted by SAA and LSG to ensure the successful opening of the lounge on 29 September 2015.
- 2.6 Further to approving the appointment of LSG (and on 20 August 2015), the Acting CEO made a submission to the Board of SAA to note the appointment of



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LSG (**Annex G**) further to the completion of the procurement process. We are informed by the Acting CEO that two (2) members of the Board have requested, for various reasons, that the award be cancelled. Herein below we deal with the applicable legal framework pertaining to the requested cancellation and provide our views in respect thereof.

3 LEGISLATIVE AND LEGAL PROVISIONS

The following legislative provisions are pertinent to the proposed suspension or cancellation of the appointment of LSG.

3.1 Promotion of Administrative Justice Act 3 of 2000 (PAJA)

3.1.1 The purpose of PAJA is to promote an efficient administration and good governance and create a culture of accountability, openness and transparency in the public administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action.

3.1.2 "Administrative action" is defined under PAJA to "mean any decision, or any failure to take a decision, by-

(a) *An organ of state, when exercising a public power or performing a public function in terms of any legislation" –*

(b) *A natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision.*

3.1.3 A "decision" is also defined under PAJA to mean "any decision of an administrative nature made, proposed to be made, or required to be made, as the case may be, under an empowering provision, including a decision relating to making, suspending, revoking or refusing to make an order, award or determination".



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- 3.1.4 Any person whose rights have been materially and adversely affected by administrative action is entitled to adequate reasons for such an action or decision. The Court held in the case of *Moletsane v Premier of the Free State and Another*¹ that what would amount to "adequate" reasons shall depend on the "degree of seriousness of the administrative act".
- 3.1.5 The requested suspension or cancellation of the award to LSG falls squarely within the definition of administrative action which requires adequate reasons to be given to a party affected by an administrative action. In order to meet the requirements of 'adequacy', the decision taken must have a factual and legal basis, a reasoning process should have been followed which led to an objective conclusion and there must be evidence of a fair procedure having been followed. SAA is an organ of state, taking a decision on a tender awarded by it (which thus constitutes administrative action) and the proposed decision will, if implemented, have an adverse effect on LSG as the awarded service provider. To the extent that it cannot be shown that 'adequate reasons' existed for the action being taken, then LSG shall be entitled to take legal action against SAA for damages. This action is not limited to actual damages suffered by LSG but can even be for an order compelling SAA to award it with the business and/or damages for the value of the contract unlawfully cancelled.
- 3.1.6 In the case of *Pharmaceutical Manufacturer's Association of South Africa and another v The President of the Republic*² the court held that decisions must be rational and cannot be made arbitrarily or capriciously. In the case of *Goodhope Plasterers v The Independent Development Trust and GVK-Siza Zama Building Contractors* the court agreed with requirement for rationality being a requirement for any decisions taken and in that matter found that the decision to cancel a tender after the issue of a letter of award to the successful bidder, a legitimate expectation on the part of that bidder had been created and the decision taken to unilaterally cancel the award was unlawful. In this

¹ 1996 (2) SA 95 (O)

² 2000 (3) BCLR 241

regard, any decision taken to cancel an award can only be justified if the said decision was based on a material error of law or fact and/or after the affected bidder has been provided with the opportunity to be heard prior to that decision having been taken.

- 3.1.7 It is thus of critical importance to note that any decision to cancel the award to LSG can only lawfully be taken to the extent that the award was based on a material error of law or fact by the authority making that award and/or after LSG has first been given the opportunity to discuss the reasons for the proposed cancellation.

3.2 Preferential Procurement Policy Framework Act (5 of 2000)

- 3.2.1 Section 217(1) of the Constitution³ provides that the award of tenders by government or public entities must be made in accordance with a system that is *"fair, equitable, transparent, competitive and cost-effective."* Section 217(3) of the Constitution provides that national legislation must prescribe the framework for the implementation of any preferential policy. This is achieved through the Preferential Procurement Policy Framework Act ("PPPFA").
- 3.2.2 Section 2(1) (f) of the PPPFA provides that once bids have been scored in terms of the PPPFA, the contract "must be awarded to the bidder who scored the highest points, unless objective criteria...justify the award to another bidder." Regulation 9 of the PPPFA Regulations, in addition, states that an award can be made to a bidder other than the highest scorer "on reasonable and justifiable grounds."
- 3.2.3 Any decision taken by SAA, accordingly, has to be taken on reasonable and justifiable grounds and is contingent on that decision-making authority to adduce proof that all applicable considerations were taken into account during its deliberations. More so, as set out in the Constitution, any such decision has to be fair, equitable, transparent, competitive and cost-effective.

³ Act 108 of 1996



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3.2.4 We have not been provided with any information that applicable considerations have been provided by the Board to address the above statutory requirements. In this regard, and having followed a lawful tender process, SAA is bound to award the tender to the highest scoring bidder (LSG) unless there are reasons (which should be able to be proven) which justify an alternative decision. This duty is, furthermore, particularly strict once an award has been communicated to a party as per the doctrine of legitimate expectation set out above.

3.3 CEO'S Delegation of Authority

3.3.1 The SAA Delegation of Authority Framework (the "**Framework**") provides for the delegation of authority to the Group Chief Executive Officer of SAA from the SAA Board of Directors.

3.3.2 Section 3.2 of the Framework provides that "the DOA applies to the authority to exercise decisions which **bind** (our emphasis) SAA or a subsidiary company. It is therefore the "*Master Policy*" *guiding decisions within the SAA Group. If there is any conflict between this DOA and other SAA policy, the provisions of this DOA will prevail*".

3.3.3 In terms of the Framework, therefore, the Acting CEO of SAA has the delegated authority to award the tender to LSG (as she did). Further to the conclusion of the tender process, a letter of award was issued by SAA, which action created a legitimate expectation on the part of LSG.

3.3.4 The decision taken by the Acting CEO is legal, valid and binding on SAA and is consistent with the approved DOA.

3.4 Companies Act⁴

3.4.1 The Companies Act recognises the management of a company's business as being vested in its board of directors. In accordance with section 66(1) of the Act, the business and affairs of a company must be managed by or under the direction of its Board, which has the authority

⁴ 71 of 2008



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to exercise all of the powers and perform any of the functions of the company.

3.4.2 There a number of duties and obligations on the directors and officers of a duly constituted board which are owed to the company they serve. The members of a board are deemed to be fiduciaries of a company which means that they have a duty to protect the company's interests (known collectively as 'fiduciary duties').

3.4.3 These fiduciary duties include the following:

- 3.4.3.1 The duty to exercise care, skill and diligence;
- 3.4.3.2 The duty to act in the best interests of the company;
- 3.4.3.3 The duty to act within their powers and for a proper purposes;
- 3.4.3.4 The duty to exercise independent judgement; and
- 3.4.3.5 The duty to avoid conflicts of interest.

3.4.4 These duties in turn mean that the directors of a company have common law liabilities which (in terms of section 77 of the Act) render them personally liable for losses sustained by the company. It is thus of critical importance that a board of directors, in taking any decision, is sufficiently informed and acts in good faith, taking into account the applicable legislative and legal framework as set out hereinabove.

4 APPLICATION

4.1 The decision to cancel the award of the tender to LSG would amount to administrative action in accordance with PAJA. The decision must accordingly be based on a factual or legal basis and must not be made arbitrarily or capriciously. At the outset, no formal board resolution exists for the decision to cancel. Any decision taken, thusly, has not been properly made in accordance with the applicable legal prescripts and is to that extent unlawful.



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- 4.2 Without derogating from the above, and to the extent that a valid board resolution was made in this regard, the board will need to be able to show proof that there are adequate reasons justifying the cancellation of the tender, failing which the decision (and SAA in turn) will be exposed to judicial review. This notwithstanding, any decision to cancel the award to LSG can only lawfully be taken to the extent that the award was based on a material error of law or fact by the authority making that award and/or after LSG has first been given the opportunity to discuss the reasons for the proposed cancellation.
- 4.3 The issue of a letter of award created a legitimate expectation on the part of LSG. This action, accordingly, limits SAA's right to cancel or suspend the award. Based on the communication of the award, LSG has been vested with an expectation to be the contracting party upon the fulfilment of any applicable condition or, at the very least, an expectation to be heard before any adverse decision can be made. SAA thus cannot, lawfully, unilaterally cancel or suspend the award made to LSG without at the very least communicating the reasons for the requested suspension and/or cancellation and without exposing itself to potential legal challenge by LSG.
- 4.4 The Acting CEO was, in accordance with the provisions of the Framework, empowered to make the decision to approve the award of the tender and the decision taken by the Acting CEO is thus legal, valid and binding on SAA.
- 4.5 Having regard to the legal risks which SAA will be exposed to in the event of a decision to cancel the award being made, the Board will need to bear in mind its fiduciary duties to the company insofar as it pertains to their duties to exercise care, skill and diligence as well as to act in the best interests of the company. The Board is thus obliged to pay careful consideration to the tangible legal principles (set out in this memorandum) which caution against proceeding with the proposed cancellation of this award, further to the completion of a lawful tender process.

5 CONCLUSION

- 5.1 The tender for catering services at SAA Lounges was procedurally and lawfully awarded to LSG. This award was in line with the PFMA and the PPPFA



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Regulations as well as SAA's procurement policies and procedures. As highlighted above, the cancelation and or putting on hold of the award may result in possible legal action and financial exposure against SAA.

5.2 Any decision to suspend or cancel the award of the tender by SAA would amount to administrative action, which action would need to be objectively fair, equitable, transparent, competitive and cost-effective. No duly constituted meeting of the Board was held regarding the subject matter hereof and as such any decision taken in this regard would be considered invalid and stands to be set aside.

5.3 We recommend that the Acting CEO engages with the Board and to provide the Board with the background information in this memorandum with annexures to assist the Board in making an informed decision based on all the available information on the matter.

SIGNATURES:

1. Compiled by:


Ephraim Lusenga (Legal Advisor)

08-09-2015
Date

2. Supported by:


Fikile Thabethe (HOD Legal)

08-09-2015
Date

3. Recommended by:


Ursula Fikalepi (GM: LRC)

08/09/2015
Date

Annexure “TM15”



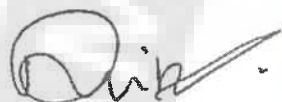
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EXTRACT FROM THE DRAFT MINUTES OF THE SPECIAL SAA SOC LTD BOARD OF DIRECTORS MEETING NO 2015/08 HELD ON MONDAY 28 SEPTEMBER 2015 AT THE INTERCONTINENTAL HOTEL, ORTIA, KEMPTON PARK AT 09H00

ORTIA LOUNGES CATERING TENDER

It was Resolved that:

- (a) the SAA domestic lounges tender award be retracted; and
- (b) the catering contract be awarded to Air Chefs without going through the bidding process.

**Ruth Kibuuka**

Company Secretary

Date: 09/10/2015



Andrew A. Keartland

From: Mabana Makhakhe
Sent: Friday, 02 October 2015 14:30
To: Ursula Fikelepi; Fikile Thabethe
Cc: Ruth Kibuuka
Subject: Fwd: SAA Lounges Tender

Hello,
 Please find extract below. This is a short version of the discussion. I have just captured the resolution. I will send the comprehensive extract a bit later because the matter was discussed twice in one meeting.

Regards,
 Mabana

----- Original message -----

From: Mabana Makhakhe
Date: 02/10/2015 14:22 (GMT+02:00)
To: Ruth Kibuuka
Subject: SAA Lounges Tender

Dear Mrs. K,

Please find resolution below. Took a while to type on my phone. Still don't have Vodacom 3g card.

Extract From Special Meeting of the Board of Directors Meeting Held on 28 September 2015 at the Intercontinental Hotel, ORTIA, Kempton Park, at 9:00am

It was Resolved that:

- (a) the SAA domestic lounges tender award be retracted; and
- (b) the catering contract be awarded to Air Chefs without going through the bidding process.

The Board stated that there should have been an exit clause on the letter of award and if not, there should be consequence management for the omission.

Kind regards,
 Mabana

Sent from my Samsung Galaxy smartphone.

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[Handwritten signature] *[Handwritten mark]*

Annexure “TM16”



Andrew A. Keartland

From: Dikeledi Raboroko <DikelediRaboroko@flysaa.com>
Sent: Tuesday, 06 October 2015 15:47
To: Josua du Plessis; Lusanda Jiya; Martin Kemp; Musa Zwane; Nico Bezuidenhout; Nivy Moodley; Siyakhula Vilakazi; Thuli Mpshe; Ursula Fikelepi; Wolf Meyer; Bev Kok; CEO; Phinda Ncala; Sylvain Bosc; Tleli Makhetha; Zuks Ramasia
Cc: Ruth Kibuuka
Subject: Reduction of the Delegation of Authority
Attachments: Reduction of the Delegation of Authority.pdf

Dear Exco and Manco Members

Kindly find attached Board decision on the DOA for your attention.

Kind regards
Dike

Dikeledi Raboroko | Personal Assistant to Company Secretary | Company Secretary

Mobile: 0763000063 | Phone: +2711-978-2763 | E-Mail: DikelediRaboroko@flysaa.com
Room S01, Floor 6, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

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FLYSAA.COM

South African Airways
Company Secretary
Suite 2, 6th Floor
Airways Park
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Private Bag X13
ORT International Airport
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Tel: 27 11 978-6553
Fax: 27 11 978-2545

Email: companysecretary@flysaa.com

EXTRACT FROM THE DRAFT MINUTES OF THE SPECIAL SAA SOC LTD BOARD OF DIRECTORS MEETING NO 2015/08 HELD ON TUESDAY 28 SEPTEMBER 2015 AT THE INTERCONTINENTAL HOTEL, ORTIA, KEMPTON PARK AT 09H00

Review of the Delegation of Authority

It was **RESOLVED** that:

- (a) The delegation of authority for approval of new contracts should be reduced by 50% for SAA, with the effect that all new contracts with a value above R50 million should be recommended to the Board for approval through the Finance, Investment and Procurement Committee (FIPCO);
- (b) The delegation of authority for subsidiaries should also be reduced by 50% and the Shareholder resolution tabled at the respective Boards for noting;
- (c) All matters above the delegated powers of subsidiaries should be recommended to the Shareholder for approval;
- (d) The reduction in delegated authority excludes operational payments arising from existing contracts.

Certified a true extract of the draft minutes.

Ruth Kibuuka
Company Secretary

Date: 06/10/2015



Directors

DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

Annexure “TM17”



Andrew A. Keartland

From: Ruth Kibuuka <RuthKibuuka@flysaa.com>
Sent: Tuesday, 13 October 2015 15:43
To: Martin Kemp; Dikeledi Raboroko
Cc: Lloyd Hudson; Mduduzi Nyoni; Thuli Mpshe
Subject: RE: Reduction of the Delegation of Authority

Hi Martin,

Clause (c) refers to matters above the delegated powers of subsidiaries (including the subsidiary board). In effect the process remains the same where the values to be approved are above the limit as indicated in the Significant & Materiality Framework.

Hope the above clarifies.

Regards

Ruth Kibuuka | Company Secretary

Mobile: +27 083 531 6004 | Phone: +2711-978-6553 | Fax: +2711 978-1055 | E-Mail: RuthKibuuka@flysaa.com
 Floor 6, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Martin Kemp
Sent: 12 October 2015 09:40 AM
To: Dikeledi Raboroko; Ruth Kibuuka
Cc: Lloyd Hudson; Mduduzi Nyoni; Thuli Mpshe
Subject: RE: Reduction of the Delegation of Authority

Hi Ruth,

I require some clarity. My understanding that all approvals are reduced by 50% (In the case of Air Chefs from R50m to R25m). Above R25m must go to the Air Chefs board. I cannot recall a discussion that stated the everything above this limit (R25m) must go to the shareholder board.

Rgds,

Martin Kemp | Acting CEO of Air Chefs | Chief Executive Office

Mobile: + 27 (0) 83 308 4060 | Phone: +27 (0) 11 978 3516 | Fax: +27 (0) 11 978-6328 | E-Mail: MartinKemp@airchefs.co.za
 Room 1, 1st Floor, Air Chefs Building, Jones Rd- Johannesburg- South Africa

From: Dikeledi Raboroko
Sent: 06 October 2015 03:47 PM
To: Josua du Plessis; Lusanda Jiya; Martin Kemp; Musa Zwane; Nico Bezuidenhout; Nivy Moodley; Siyakhula Vilakazi; Thuli Mpshe; Ursula Fikelepi; Wolf Meyer; Bev Kok; CEO; Phinda Ncala; Sylvain Bosc; Tleli Makhetha; Zuks Ramasia
Cc: Ruth Kibuuka
Subject: Reduction of the Delegation of Authority

Dear Exco and Manco Members

Kindly find attached Board decision on the DOA for your attention.

Kind regards

Dike

Dikeledi Raboroko | Personal Assistant to Company Secretary | Company Secretary

Mobile: 0763000063 | Phone: +2711-978-2763 | E-Mail: DikelediRaboroko@flysaa.com
Room S01, Floor 6, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

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Annexure “TM18”



Andrew A. Keartland

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Sent: Sunday, 11 October 2015 12:14
To: Kim Thiye; Sylvain Bosc
Subject: Fwd: Complaint about new VIA lounge

Sent from my iPhone

Begin forwarded message:

From: Tlali Tlali <TlaliTlali@flysaa.com>
Date: 11 October 2015 at 11:56:11 SAST
To: Thuli Mpshe <ThuliMpshe@flysaa.com>, Zuks Ramasia <ZuksRamasia@flysaa.com>, Lusanda Jiya <LusandaJiya@flysaa.com>, Daicy Demas <DaicyDemas@flysaa.com>
Subject: Fwd: Complaint about new VIA lounge

Colleagues,

Please take note of the email below.

This happens when he SABC has just agreed to broadcast from the new facility on Thursday morning, free of charge.

I need your guidance on whether the lounge challenges can and will be resolved immediately. The could impact negatively on our efforts to spread some good news stories.

The customer feedback in the email below is such an indictment.

Kind regards,

Tlali Tlali
 South African Airways

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: Daniel Silke <info@danielsilke.com>
Date: 11/10/2015 11:01 (GMT+02:00)
To: Tlali Tlali <TlaliTlali@flysaa.com>
Subject: Complaint about new VIA lounge

Sirs

Please do pass on to the relevant parties.

As a frequent flyer, I was excited to try out the new VIA lounge at OR Tambo this last week.

The lounge is beautifully fitted out and makes for a substantial improvement.

However, the food offerings were simply awful. The catering was sub-standard and best avoided. Even the staff seemed embarrassed by what was offered.

I will be reporting this to Investec as well as a shareholder in the renovations.

Pity that for all the money well spent on the physical environment, the food offering were a deterioration.

I will be lounging elsewhere until this is resolved!

Regards

Daniel Silke
Cape Town
082-5548538

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Annexure “TM19”



Andrew A. Keartland

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Sent: Tuesday, 06 October 2015 20:39
To: Duduzile Myeni; Dudu Myeni; Yakhe Kwinana2; Yakhe Kwinana; Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); John Tambi (johnt@nepad.org); Wolf Meyer
Cc: Ruth Kibuuka; Siyakhula Vilakazi
Subject: FW: ENS addendum
Attachments: ENS.docx

Dear Board Members

Trust you are well this evening. The Company Secretary forwarded a request from the board as per the trailing email dated 01 October 2015. The request was to add an addendum to the ENS contract, the addendum was to extend their scope to Sylvain's investigation.

I sought the guidance of the Chief Audit Executive; Siyakhula in this regard.

Attached is the Chief Audit Executive paper explaining that the appointment of ENS is irregular; the SCM process was not followed.

I am therefore not able to extent the ENS scope as requested.

It is my humble and considered view that we assist the board in regularising the ENS appointment.

I request Ruth to seek the correct documents from Procurement to condone ENS appointment and thereafter we will action the request.

Trusting that you find this in order.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Ruth Kibuuka
Sent: 01 October 2015 03:44 PM
To: Thuli Mpshe
Subject: ENS addendum



Dear Thuli,

The Board has agreed that an urgent investigation be conducted by ENS (as they are still on site) into the allegations against Sylvain. We are busy preparing a round robin to formalise this decision. In the meantime, due to the urgency emphasised by Board members we have drafted the addendum which should be provided to ENS under your signature as indicated below:

Addendum to the ENS Contract:

The Board of Directors has agreed to extend the current scope of work for ENS to include an investigation into the allegations levelled against Mr Sylvain Bosch which are contained in the whistle blower report provided by Deloitte on or about 11 September 2015, and any other allegations that may be brought to light by the investigation.

Regards

Ruth Kibuuka | Company Secretary

<image001.jpg>Mobile: +27 083 531 6004 | <image002.jpg>Phone: +2711-978-6553 | <image005.jpg>Fax: +2711

978-1055 | ✉ E-Mail: RuthKibuuka@flysaa.com

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From:	Chief Audit Executive
To:	Acting Chief Executive Officer Company Secretary
Date:	05 October 2015

APPOINTMENT OF EDWARD NATHAN SONNENBERG AFRICA (ENS) TO INVESTIGATE ALLEGATIONS IN A CERTAIN WHISTLEBLOWER REPORT

1 PURPOSE

Internal Audit was requested by the Acting CEO (ACEO) to provide an opinion on whether the process followed in appointing ENS to conduct an investigation of allegations in a certain Whistleblower report was aligned to the SAA SCM Policy and PFMA.

2 BACKGROUND

The CAE received a Whistleblower report from the SAA official Whistleblower line on in September 2015. The Whistleblower report contained allegations against a certain SAA EXCO member. As per the Internal Audit Charter, the CAE sent the report to all three Audit and Risk Committee (ARC) members to deliberate on the report and advise the CAE on the next step. The same report must have been presented by the ARC to the Board. Having considered the Whistleblower report, the Board took a resolution that the report must be investigated. Consequently, the Board recommended that ENS must be appointed to conduct the investigation. The recommendation was sent to the ACEO for her approval. Before approving or declining the recommendation, the ACEO requested Internal Audit to conduct a high level review of the procurement process and provide an opinion on whether the process followed in appointing ENS to conduct an investigation of allegations in a Whistleblower report was aligned to SAA SCM Policy.



3 APPLICABLE LEGISLATIVE AND LEGAL PROVISIONS

The following legislative provisions are pertinent to the opinion sought.

3.1 SAA Supply Chain Management Policy (the Policy) and the Treasury Regulations

- 3.1.1 The Policy provides that SAA shall apply section 217 of the Constitution of the Republic of South Africa by contracting for goods and services in accordance with a system which is fair, equitable, transparent, competitive and cost effective.
- 3.1.2 In order to give effect to the above constitutional imperatives, SAA has adopted the Policy in accordance with the Public Finance Management Act, Act 1 of 1999 (the PFMA), the Treasury Regulations issued in terms of the PFMA and the Preferential Procurement Policy Framework Act, Act No 5 of 2000 (the PPPFA).
- 3.1.3 Paragraph 11.2 of the Policy deals with the **"Procurement of Goods, Services and Works"**. The paragraph provides that ***"Goods, services and works shall only be procured in accordance with authorised policy. Procurement of goods, services and works, either through quotations or through a bidding process, shall be within the threshold values, in line with the DOA"***.
- 3.1.4 Paragraph 11.12.1 provides that a ***"competitive open bidding shall be used for procurement above the quotation threshold"***. The quotation threshold is currently R500 000 (five hundred thousand rand).
- 3.1.5 Regulation 16A6.4 states that ***"if in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority"***.



3.1.6 The Policy deals with the provisions of the above Regulations. Paragraph 11.13 deals with **Limited / Confined Bidding** and states that SAA shall use limited bidding only in the following exceptional circumstances:

3.1.6.1 In cases of where it becomes impossible or impractical to follow the standard procurement process;

3.1.6.2 In cases of emergency which are defined as serious, unexpected and potentially dangerous circumstances requiring immediate rectification such as a threat or interruption in SAA's ability to execute its mandate or an immediate threat to the environment or human safety;

3.1.6.3 where there is proven limited competition in the market and there is good reason to restrict it to only those few bidders such as standardisation on a certain brand and product;

3.1.6.4 where, after a thorough analysis, there is good and justifiable reason to restrict the process to only one bidder such as where you enter into a maintenance contract with only the bidder who supplied the product otherwise the product loses its guarantee; and

3.1.6.5 where no competition exists and is proven that only one bidder exists.

3.1.6.6 Paragraph 11.14 deals with Emergency Purchases and defines an emergency situation ***"as one that is serious, unexpected and potentially dangerous where significant financial loss may occur or a serious disruption to business may result. In these instances the established procurement policy may be circumvented. Poor planning on behalf of business is not deemed to be an emergency"***.

3.1.6.7 Sub-paragraph 11.14.2 lists the following examples of emergency situation:



- Disasters (e.g. damage from cyclones, floods, fire etc.).
- Customer service impacting conditions.
- System failures.
- Aircraft on ground or potential on ground situations.
- Jeopardising the safety and health of others.

3.1.7 I was advised that SAA did not follow any competitive process when the resolution was taken to appoint ENS to conduct the investigation. In the absence of any competitive process to appoint ENS, one has to turn to the Policy provisions on exceptional circumstances as amplified by Regulation 16A6.4 to establish if the ACEO will be justified in appointing ENS without following a competitive process.

3.1.8 From the quoted paragraphs of the Policy, there are two recognised deviations from a competitive procurement process, namely limited or confined bidding and emergency purchases. It appears that SAA has appointed ENS using the limited or confined appointment process. As indicated above, the use of the limited or confined procurement process may be warranted in certain circumstances and justified under the Regulation however; limited or confined procurement has the potential to defeat compliance with all the principles of section 217 of the Constitution. A limited or confined appointment suggests there is only one provider for the particular goods or services and an appointment thereof should be fully justified and supported by compelling evidence. For SAA to justify the sole appointment of ENS it must prove that no reasonable alternative or substitute exists for the goods or services in question.

3.1.9 Further, in the leading case on Regulation 16A6.4 of Chief Executive Officer, South African Social Securities Agency and others v Cash Paymaster Services (Pty) Ltd¹. The Supreme Court of Appeal had to decide

¹ 2012(1) SA 216 (SCA)



whether the entering into an agreement between SASSA and the South African Post Office for the provision of banking services with indigent citizens to facilitate the payment of social grants, was invalid for deviation from the normal process. In that instance no competitive process was followed and thus the Court turned to Regulation 16A6.4 to answer the question.

- 3.1.10 Tshiqi JA wrote the unanimous judgement which dissected and interpreted this Regulation. The judge found the Regulation to contain two elements: one material and the other formal. Firstly, there must be rational reasons for such deviation (material). Secondly, the reasons for deviating must be recorded (formal).
- 3.1.11 Based on the above legal jurisprudence in order for any appointment which deviates from a competitive process the two elements must be fulfilled i.e. a rational reason(s) for the deviation must be provided and the reason(s) must be recorded formally.
- 3.1.12 SAA has not supplied nor recorded any cogent reasons for deviating from the peremptory statutory provisions of its Policy, the PPPFA and the PFMA in resolving to appoint ENS to conduct the investigation. Therefore SAA cannot rely on the provisions of the Regulation nor the Policy to justify the appointment.
- 3.1.13 On the background provided and documents not presented to me it appears there are no cogent reasons for confining the appointment for ENS in exclusion of all forensic audit firms in the approved SAA panel of forensic auditors and there were no reasons recorded for this decision. In its failure to follow a competitive procurement process, SAA has breached peremptory statutory prescripts which are designed to ensure a transparent, cost effective and competitive tendering process. The resultant appointment is therefore invalid and in contravention of the Policy, PPPFA and the PFMA.



4. OTHER RELEVANT FACTS

- ENS used to be in SAA panel of legal firms that provide Legal advisory services. I did not see evidence that the same legal firms could provide forensic audit/investigation services as part of their scope.
- In addition to a panel of Legal firms, SAA appointed a panel of forensic audit firms. One of the reasons for appointing a panel of forensic audit firms was because the scope of legal firms in the then panel did not include forensic audit investigations.
- ENS was not part of the forensic audit firms' panel.
- The panel of Legal firms expired sometime in April 2015. That means ENS is not part of any panel currently.
- I have not received a contract which ENS has with SAA to provide forensic audit services. That therefore means there can be no "addendum" of a contract that does not exist.
- At the meeting in May 2015, the ARC recommended that the CAE will appoint a forensic audit firm from the approved panel of firms to investigate Whistleblower reports on EXCO and Board members. ENS is not part of the current panel of forensic audit firms.

5. APPLICATION

5.1 From the summation of the above factual background, legislation and case law, the ENS's appointment was conducted in deviation of and contravention of the SAA SCM Policy and the Treasury Regulation. An award of a contract for provision of goods and services to SAA must follow an open and transparent process as per section 217 of the constitution and not taken arbitrarily or capriciously. At the outset, no formal or documented process has been supplied supporting the decision to award the assignment for forensic audit services to ENS. The award to ENS has not been properly made in accordance with the applicable legal prescripts.



5.2 Without derogating from the above, and to the extent that a single source appointment process was followed and documented, SAA will need to be able to show proof that there are adequate reasons justifying the confinement of the award to ENS, failing which the award may be cancelled as a material error of law or fact rendering the appointment unlawful.

5.3 The appointment of ENS cannot be carried out as an extension of any of the previous contract, if any. That might actually be interpreted as an "evergreen contract". I have no evidence to convince me that this is not a new appointment. An extension can only be concluded if there is a current appointment with enabling provisions for an extension of the agreement; I have not seen such an appointment contract.

6. CONCLUSION

Unless there are rational reasons for deviating from the normal procurement process and the reasons for deviating are recorded (as required by TR16A6.4):

6.1 The recommended appointment of ENS is in violation of the SAA procurement policy, the PPPFA and the PFMA and therefore invalid and cannot be enforced.

7. RECOMMENDATION

It is recommended that SAA follow the applicable process to appoint a forensic audit firm to investigate the allegations in the Whistleblower report by following its Policy on procurement of services, comply with the peremptory statutory prescripts by placing the services on a competitive procurement process.

6.1 If extension of a previous contract;

- The ACEO must be furnished with such a contract. Internal Audit has not seen the contract.
- The existing contract must have enabling provisions for an extension of the agreement.



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- If the contract exists, it must be investigated whether or not that appointment was aligned to the above prescripts. To date, Internal Audit has not been furnished with evidence.

6.2 If a new appointment;

- If the emergency procurement was followed, the ACEO must be furnished with the following:
 - A recorded decision made to follow an emergency procurement process.
 - Motivation to follow an emergency procurement process and evidence that there was alignment with the SCM policy.
- If the confined or limited procurement process was followed, the ACEO must be furnished with the following:
 - The recorded decision to follow an confined or limited procurement process
 - Motivation to follow a confined or limited procurement process and evidence that there was an alignment with the SCM policy

If Treasury Regulation 16A6.4 was followed;

- If TR16A6.4 was followed; the ACEO must be furnished with the following:
 - A recorded decision made to follow TR16A6.4.
 - The recorded motivation to follow TR16A6.4 and evidence that there was an alignment with the SCM policy

In the absence of the information as recommended under this paragraph, the appointment will be classified as irregular and will require condonment as SCM policy.




OTHER ENS APPOINTMENTS

I recommend that each assignment should be looked at on its own merits. This report is only on the appointment of ENS to investigate the Whistleblower report.

Similar prescripts however apply to all other assignments for which ENS was appointed.

SIGNATURES:

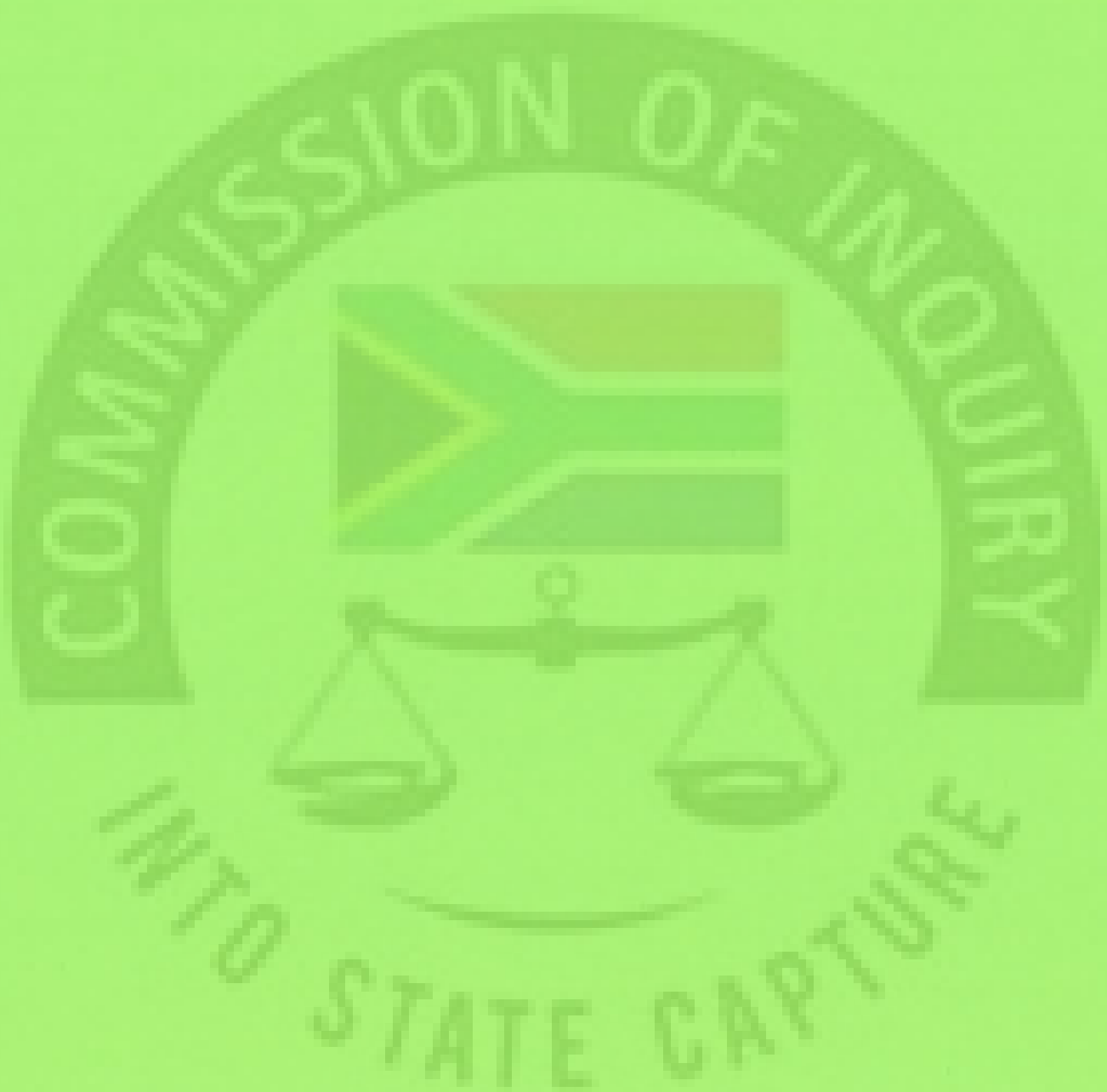
1. Compiled by:

Siyakhula Vilakazi (CAE)

Date



Annexure “TM20”



Andrew A. Keartland

From: Yakhe Kwinana <yakhe@kwinana.co.za>
Sent: Wednesday, 07 October 2015 07:16
To: Thuli Mpshe; Duduzile Myeni; Dudu Myeni; Yakhe Kwinana; Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); John Tambi (johnt@nepad.org); Wolf Meyer
Cc: Ruth Kibuuka; Siyakhula Vilakazi
Subject: RE: ENS addendum

Dear A:CEO

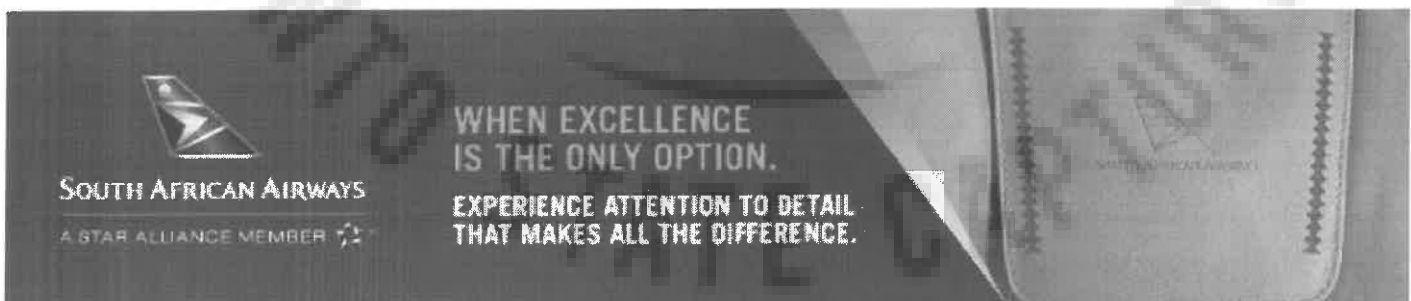
I understand that ENS is now doing their 7th assignment since they were appointed to do the Kalawe investigation and they have been appointed on exactly the same modus operandi. Out of the 7 assignments, the Chief Audit Executive needs to tell us which ones are regular which ones are irregular and how is this particular assignment different from the previous 6.

Best Regards

Yakhe Kwinana

Tel 012 807 0801
 Fax 012 807 0633
 Cell 079 950 0610
 Email yakhe@kwinana.co.za
 Physical Address Alenti Office Park, Block H, 457 Witherite Street, The Willows Ext 82, Pretoria, 0184

From: Thuli Mpshe [mailto:ThuliMpshe@flysaa.com]
Sent: 06 October 2015 08:39 PM
To: Duduzile Myeni <dudumyeni@telkomsa.net>; Dudu Myeni <dudum@jacobzumafoundation.org.za>; Yakhe Kwinana <yakhe@kwinana.co.za>; Yakhe Kwinana <yakhekwinana@gmail.com>; Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net) <tonydixon@telkomsa.net>; John Tambi (johnt@nepad.org) <johnt@nepad.org>; Wolf Meyer <WolfMeyer@flysaa.com>
Cc: Ruth Kibuuka <RuthKibuuka@flysaa.com>; Siyakhula Vilakazi <SiyakhulaVilakazi@flysaa.com>
Subject: FW: ENS addendum



Dear Board Members

A handwritten signature in black ink, appearing to be 'AM' or similar initials.

A handwritten signature in black ink, consisting of a stylized 'R' followed by a horizontal line.

Trust you are well this evening. The Company Secretary forwarded a request from the board as per the trailing email dated 01 October 2015. The request was to add an addendum to the ENS contract, the addendum was to extend their scope to Sylvain's investigation.

I sought the guidance of the Chief Audit Executive; Siyakhula in this regard. Attached is the Chief Audit Executive paper explaining that the appointment of ENS is irregular; the SCM process was not followed.

I am therefore not able to extent the ENS scope as requested.

It is my humble and considered view that we assist the board in regularising the ENS appointment.

I request Ruth to seek the correct documents from Procurement to condone ENS appointment and thereafter we will action the request.

Trusting that you find this in order.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Ruth Kibuuka
Sent: 01 October 2015 03:44 PM
To: Thuli Mpshe
Subject: ENS addendum

Dear Thuli,

The Board has agreed that an urgent investigation be conducted by ENS (as they are still on site) into the allegations against Sylvain. We are busy preparing a round robin to formalise this decision. In the meantime, due to the urgency emphasised by Board members we have drafted the addendum which should be provided to ENS under your signature as indicated below:

Addendum to the ENS Contract:

The Board of Directors has agreed to extend the current scope of work for ENS to include an investigation into the allegations levelled against Mr Sylvain Bosch which are contained in the whistle blower report provided by Deloitte on or about 11 September 2015, and any other allegations that may be brought to light by the investigation.




Regards

Ruth Kibuuka | Company Secretary

<image001.jpg>Mobile: +27 083 531 6004 | <image002.jpg>Phone: +2711-978-6553 | <image005.jpg>Fax: +2711

978-1055 |  E-Mail: RuthKibuuka@flysaa.com

Floor 6,Block A,Airways Park,OR Tambo International- Johannesburg- SOUTH AFRICA

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SOUTH AFRICAN AIRWAYS

A STAR ALLIANCE MEMBER 

Best Airline in Africa
For the 13th consecutive year

Best Airline Staff Service in Africa
For the 4th time



Directors

DC Myer* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE

Annexure “TM21”



Andrew A. Keartland

From: Nkosana <nkosanascommissionsc@flysaa.com>
Sent: Tuesday, 26 March 2019 11:59
To: Andrew A. Keartland
Subject: FW: FW: Draft letter for your consideration
Attachments: LETTER OF ENGAGEMENT SAA-2.docx

From: "Yakhe Kwinana" <yakhe@kwinana.co.za>
Date: 01/09/2015 at 15:51:54
To: "Thuli Mpshe" <ThuliMpshe@flysaa.com>
Cc: "Yakhe Kwinana" <yakhekwinana@gmail.com>
Subject: FW: Draft letter for your consideration

Dear Ms Mpshe

Please find attached do hope it is in order.

Kind Regards

Lana Lourens

KWINANA AND ASSOCIATES INC.

PERSONAL ASSISTANT TO YAKHE KWINANA (MD)



Kwinana & Associates
Incorporated
AUDIT - TAX - ADVISORY

Tel 012 807 0801

Cel 072 456 8107

Fax 012 807 0622

Email yakhe@kwinana.co.za

Physical Address Alenti Office Park, Block H, 457 Witherite Street,
Die Wilgers Ext 82, Pretoria 0184

Postal Address PO Box 74423, Lynnwood Ridge, Pretoria 0040

This message contains privileged and confidential information intended only for the use of the addressee.

Please consider the environment before printing this message.

From: Luvo [mailto:luvo24@yahoo.co.uk]
Sent: 28 August 2015 12:19 AM
To: Yakhe Kwinana <yakhe@kwinana.co.za>
Subject: Draft letter for your consideration

Disclaimer: The information in this e-mail is confidential and is legally privileged. It is intended solely for the addressee. If this e-mail is not intended for you, you cannot copy, distribute or disclose the included information to anyone and request that the mail be deleted. Any disclosure of confidential or privileged information transmitted herewith may result in legal proceedings being instituted against the recipient hereof. While all reasonable steps have been taken to ensure the accuracy and integrity of all data transmitted electronically, SAA does not accept liability if the data, for whatever reason, is corrupt or does not reach its intended destination. Please note that this e-mail and the contents thereof is subject to the standard SAA E-mail Disclaimer which may be found at http://www.flysaa.com/za/en/policies_and_disclaimers.action#Email. Should you not have access to the internet, send an e-mail to requestdisclaimer@flysaa.com and a copy will be sent to you.



Directors

JB Magwaza* (Chairperson), V Jarana (Group Chief Executive Officer), Al Bassa*, ML Kingston*, HP Maluleka*, TN Mgoduso*, T Mhlari*, AH Moosa*, G Rothschild*, MP Tshisevhe*

Non-Executive Director
* British Citizen

Company Secretary – RN Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER



**Johannesburg Office**

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 Rivonia
 P O Box 3056
 Rivonia
 T: +27 (0) 11 234 9519
 F2E: +27 (0) 86 770 8460

To: SOUTH AFRICAN AIRWAYS

Per email: yakhe@kwinana.co.za

Also @ Cape Town & Port Elizabeth



Our Ref: Luvo Makasi
 Your Ref: Y Kwinana
 Date: 21 August 2015
 Email: luvo@boqwanaburns.com
brettm@boqwanaburns.com

Dear Sirs,

RE: LETTER OF ENGAGEMENT: INVESTIGATION OF CURRENT SAA CFO & FORMER SAA ACTING CEO

The above matter refers.

(1) Introduction

This letter serves to confirm your appointment of Boqwana Burns Incorporated to act as your attorneys, the main terms of instruction being to investigate the conduct and allegations made against the current CFO and former acting CEO of South African Airways and to make appropriate recommendations to the Board of SAA, pursuant to the investigation.

(2) Terms of business

The Boqwana Burns Incorporated terms of business recorded herein are an integral part of our appointment. All work carried out by Boqwana Burns Incorporated is subject to those terms except to the extent that changes are expressly agreed to in writing.

Directors: Irvine Arnoed, Max Boqwana, Bob Makukunzva, Luvo Makasi, Ricky Stone
 Associates: Brett Murison
 Candidate Attorneys: Nonzaliseko Mahambehiale
 Consultant: Denver Burns
 Finance Manager: Lisa Grobler
 Practice Development Manager: Parash Raga
 Company Registration Number: 2012/084819/21

pp...**(3) Scope**

You have instructed Boqwana Burns Incorporated to:

3.1 to investigate the conduct and allegations made against the current CFO and former acting CEO of South African Airways, which includes but not limited to:

- a) a loan facility procured or about to be procured by SAA without the appropriate approvals being obtained;
- b) opinion on the conduct of the CFO in relation to the procurement of the loan funding referred to above and the alleged unlawful recording of meetings by the CFO;
- c) Allegations made by an anonymous whistleblower with regards to a possible conflict of interest existing in respect of the erstwhile acting CEO of the South African Airways which may have caused financial losses to South African Airways, possible anti-competitive behavior and/or possible corruption in relation to various decisions, arrangements and agreements between South African Airways and Mango Airlines;
- d) Review the agreements between South African Airways and Mango pursuant to the allegations made against the former acting CEO of South African Airways; and

3.2 to provide necessary advice generally in all matters relating thereto.

(4) Professional team

Mr. Luvo Makasi shall be responsible for the overall supervision of your instructions. Additional resources will be made available to meet your requirements, as necessary. We will, where possible, keep you up to date in this regard.

(5) Our fees and expenses

Our fees will be calculated by reference to the time spent by the professionals (including Candidate Attorneys) dealing with your matter, in accordance with our terms of business. At this stage we estimate that our fees to conduct the preliminary investigations,



pp...

information gathering and opinion will not exceed R 200 000-00 (two hundred thousand rand) exclusive of VAT, note that this is an estimate only. Should we determine that our fees will exceed this estimated amount based on actual time spent and/or work carried out in order to carry out the instruction and scope of work as referred to above we will communicate with you before charging such fee. In the absence of agreement we will charge for the time spent and/or work carried out having due regard to the amount referred to herein.

Our fees are exclusive of VAT which is charged at the prevailing rate. They are also exclusive of travel, subsistence and all other disbursements. Any disbursements will be charged in addition to our fees and will be itemized separately on any Invoice. Billing and payment of our invoice is to take place fortnightly or immediately after conclusion of the instruction, whichever happens first.

(6) Payments In Advance

We may ask you to pay sums on account of fees and expenses which are anticipated as the matter progresses. At this stage we may require R 50 000-00 (fifty thousand rand) as a security deposit, unless otherwise agreed upon between Boqwana Burns Inc and South African Airways. This amount will cover the initial cost of necessary consultation to gather relevant information and discussing the particular details of your instruction in order to provide the necessary advice, perform due diligence of the available documents and to launch the investigation.

(7) Your responsibility for our invoices

You are responsible for the payment of our fees and disbursements incurred whilst attending to your instructions.

(8) FICA

We refer you to our obligations in terms of the Financial Intelligence Centre Act, 2001. We require the following FICA documents from yourself:

- See terms of business form attached hereto

Should you have any queries in relation to this Appointment, please do not hesitate to contact the writer hereof.

(9) Agreement



DP...

If you have any queries in relation to this Appointment Letter, please do not hesitate to contact us.

(10) Payment of security deposit and account details

Our banking details for purposes of payment of the security deposit as well as our fees in the future are as follows:

BOQWANA BURNS INCORPORATED

BANK: NEDBANK

ACCOUNT NO. 1055268006

BRANCH CODE. 198765

REFERENCE. L Makasi/South African Airways

(Please sign the enclosed duplicate of this letter and return it to us as soon as possible).

Yours Faithfully

Per: Luvo Makasi
Boqwana Burns Inc.

Enclosed – Terms of business for Boqwana Burns Incorporated

Per: Acting- CEO of South African Airways

Ms Mpshe



Annexure “TM22”



Andrew A. Keartland

From: Nkosana <nkosanascommissionsc@flysaa.com>
Sent: Tuesday, 26 March 2019 11:59
To: Andrew A. Keartland
Subject: FW: FW:
Attachments: LETTER OF ENGAGEMENT SAA-2.docx

From: "Thuli Mpshe" <ThuliMpshe@flysaa.com>
Date: 01/09/2015 at 13:16:39
To: "Ruth Kibuuka" <RuthKibuuka@flysaa.com>
Cc: "Yakhe Kwinana2" <yakhe@kwinana.co.za>
Subject: FW:

Dear Ruth

Please note and action.

Regards.

Thuli Mpshe | GM: Human Resource | Human Resources

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com

6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Yakhe Kwinana2
Sent: 01 September 2015 12:36 PM
To: Thuli Mpshe
Subject:

Dear Thuli

Please get the Board Resolution in respect of this appointment from Company Secretary.

Yakhe Kwinana

Sent from my Samsung device

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Directors

JB Magwaza* (Chairperson), V Jarana (Group Chief Executive Officer), A Bassa*, ML Kingston*, HP Maluleka*, TN Mgoduse*, T Mhlani*, AH Moosa*, G Rothschild*, MP Tshisevhe*

*Non-Executive Director
British Citizen

Company Secretary – RN Gbuuka

South African Airways SOC Ltd

Reg. No 1997/022444/30

A STAR ALLIANCE MEMBER 

Annexure “TM23”



Andrew A. Keartland

From: Nkosana <nkosanascommissionsc@flysaa.com>
Sent: Tuesday, 26 March 2019 11:57
To: Andrew A. Keartland
Subject: FW:
Attachments: LETTER OF ENGAGEMENT SAA-2.docx

From: "Yakhe Kwinana" <yakhe@kwinana.co.za>
Date: 01/09/2015 at 12:09:51
To: "Ruth Kibuuka" <RuthKibuuka@flysaa.com>
Subject:

Sent from my Samsung device
Please print and get Thuli to sign

Yakhe Kwinana



A handwritten signature in black ink, appearing to be 'M. Nkosana', is located in the bottom right area of the page.

A second, shorter handwritten signature in black ink is located to the right of the first signature.

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Directors

JB Magwaza* (Chairperson), V Jarana (Group Chief Executive Officer), A Bassa*, ML Kingston*, HP Maluleka*, TN Mgoduso*, T Mhlari*, AH Moosa*, G Rothschild*, MP Tshisevhe*

*Non-Executive Director
*British Citizen

Company Secretary – RN Kibuuka

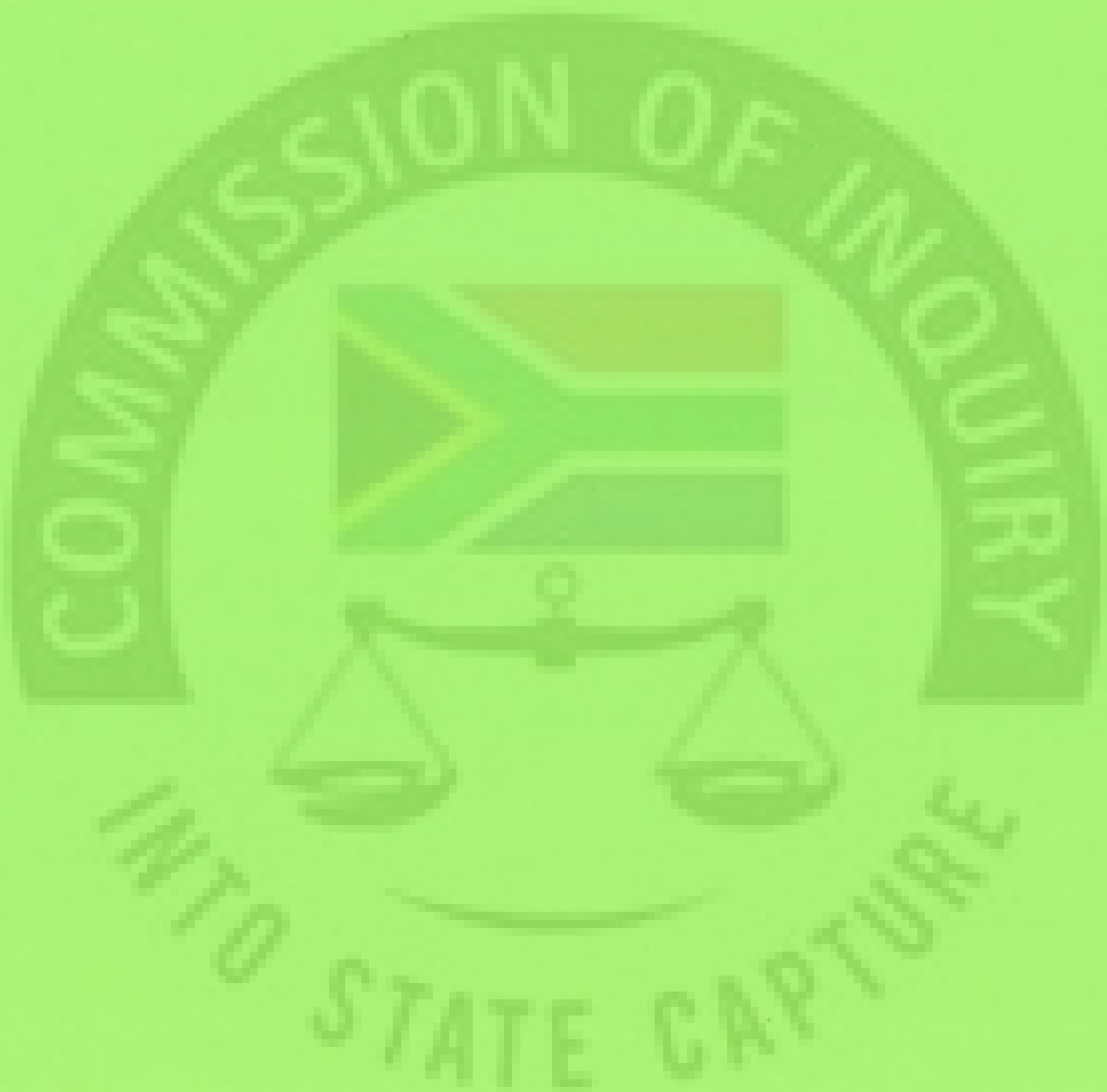
South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER



Annexure “TM24”



Andrew A. Keartland

From: Nkosana <nkosanascommissionsc@flysaa.com>
Sent: Tuesday, 26 March 2019 11:57
To: Andrew A. Keartland
Subject: FW:
Attachments: LETTER OF ENGAGEMENT SAA-2.docx

From: "Yakhe Kwinana" <yakhe@kwinana.co.za>
Date: 01/09/2015 at 11:45:02
To: "Dudu M" <dudumyeni@telkomsa.net>, "Thuli Mpshe" <ThuliMpshe@flysaa.com>, "tonydixon@telkomsa.net" <tonydixon@telkomsa.net>, "johnt@nepad.org" <johnt@nepad.org>
subject:

Sent from my Samsung device



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Directors

JB Magwaza* (Chairperson), V Jarana (Group Chief Executive Officer), Al Bassa*, ML Kingston*, HP Maluleka*, TN Mgoduso*, T Mhlari*, AH Moosa*, G Rothschild*, MP Tshisevhe*

Non-Executive Director
British Citizen

Company Secretary – RN Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER



Annexure “TM25”



Andrew A. Keartland

From: Thuli Mpshe
Sent: Wednesday, 30 September 2015 19:48
To: Ursula Fikelepi
Cc: Masimba Dahwa
Subject: RE: Draft letter for your consideration

Hi Ursula

As discussed earlier we will do a telecom with Ms Kwinana tomorrow.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Ursula Fikelepi
Sent: 30 September 2015 04:55 PM
To: Thuli Mpshe
Subject: RE: Draft letter for your consideration

Dear Thuli

The Supply Chain Management Policy allows for deviations in paragraphs 4.1 and clause in the following instances:

1. Exclusions: listed as
 - a. Petty cash purchases;
 - b. Professional members and subscriptions;
 - c. Water and electricity
 - d. Income generating contracts;
 - e. Rates and taxes from local authorities or provincial administrations;
 - f. Landing and navigation service fees;
 - g. Goods/services provided by SAA Divisions/Bus/Subsidiaries;
 - h. Letting and hiring and acquisition and alienation of land and fixed property where the bidding process cannot be utilised;
 - i. Sponsorships and donations;
 - j. Studies through specific institutions.
2. Limited or confined bidding;
3. Emergency purchases;
4. One quote process;
5. Acquisition and leases of aircraft; and
6. Condonements.

The list of the exclusions is a closed list and thus anything falling outside of the list stipulated in paragraph 4 of the SCM, does not constitute an exclusion, as allowed under that paragraph. Based on the facts of the current matter presented, the services procured from Mr Makasi do not form part of the list of Exclusions specified in the SCM.




With respect to the other deviations, I addressed limited or confined bidding and Emergency purchases in my previous email on 7 September 2015 and concluded that these do not apply to the facts of this matter (see attached). Similarly, this matter is not an acquisition or lease of an aircraft.

The only other ground allowed for deviating from the SCM is the "one quote process", which allows for *"only one quote to be obtained from an end-user with circumstances duly motivated and submitted to the relevant SCM official to complete the approval process in line with the DoA"*.

Paragraph 11.15.1 lists examples of services where a one quote process can be followed and these include:

- Specific training;
- Venues and conference facilities;
- Catering in a specific area;
- Tender and promotional adverts in newspapers; and
- participation by SAA in partner marketing events.

The above list of examples is quite specific to training, marketing, advertisements and catering. Since a deviation constitutes an exemption to a policy of general application which requires a stipulated process to be followed for all procurement, it is interpreted narrowly and the exempted instances listed would of a specific nature or class (*ejusdem generis* rule). Procurement of the services stated in the facts of this matter do not form part of this class or nature listed in this exemption. Accordingly, the One Quote process would not be the applicable process in this area.

The SCM does not define SCM Official, but defines "Supply Chain Management Practitioner" as *"a person who practices supply chain management as a profession or any other official practising or involved with supply chain management"*. It can be inferred from this definition that the SCM official referred to in clause 11.15.1. To my knowledge and understanding

As stated previously, paragraph 11.17 of the SCM authorises the CEO to condone, the SCM also allows for condonement for irregular purchases where due process has not been followed. Due process referred to is the process relating to the procurement of Mr Makasi's services, in respect of which paragraph 11.2 of the SCM references *"Procurement of goods, services and works, either through quotations or through a bidding process"*, in line with section 217 of the Constitution and section of the Preferential Procurement Policy Framework Act which require open, fair, competitive and transparent procurement process.

I also reviewed the DoA to determine if there is any provision for deviations. This would be an anomaly since the Board would typically reserve powers to itself for matters that it wishes to address directly, as is the case with the current DoA.

Since you advised that the consultant Mr Makasi is already appointed, the condonement seems a more neat and elegant solution.

It may be more useful to engage face to face with the Chair of Audit and Risk so we can understand where she is coming from and also invite the Chief Audit Executive and even the CPO to the discussion so we can resolve and close the matter.

Kind regards,

Ursula Fikelepi | General Manager | Legal Risk and Compliance

Mobile: 0837960899 | Phone: 2711-978-5279 | E-Mail: UrsulaFikelepi@flysaa.com
Room SUITE 2, Floor 6, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Thuli Mpshe

Sent: 11 September 2015 04:40 PM



To: Ursula Fikelepi
Cc: Yakhe Kwinana2; Yakhe Kwinana; Dudu Myeni; Dudu Myeni; Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); John Tambi (johnt@nepad.org); Ruth Kibuuka
Subject: FW: Draft letter for your consideration

Dear Ursula
 Please note the trailing email and advise.
 Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Yakhe Kwinana
Sent: 11 September 2015 02:20 PM
To: Thuli Mpshe; Yakhe Kwinana2
Cc: John Tambi (johnt@nepad.org); Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); Ruth Kibuuka
Subject: RE: Draft letter for your consideration

Dear Thuli

Can you get an opinion from Legal because I am advised that if a service provider is approved by the board, it is not irregular, it falls under "deviations".

Thank you

Yakhe

Sent from my Samsung device

----- Original message -----

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Date: 08/09/2015 22:01 (GMT+02:00)
To: Yakhe Kwinana2 <yakhe@kwinana.co.za>, Yakhe Kwinana <yakhekwinana@gmail.com>
Cc: "John Tambi (johnt@nepad.org)" <johnt@nepad.org>, "Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net)" <tonydixon@telkomsa.net>, Ruth Kibuuka <RuthKibuuka@flysaa.com>
Subject: RE: Draft letter for your consideration



Dear Ruth

Please note the trailing email and action.

Thanks and regards.

Thuli Mpshe | Acting Group CEO | Corporate

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com

6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Yakhe Kwinana2
Sent: 08 September 2015 03:55 PM
To: Thuli Mpshe; Yakhe Kwinana
Cc: John Tambi (johnnt@nepad.org); Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); Ruth Kibuuka
Subject: Re: Draft letter for your consideration

Thank you Thuli. You may as well get the others condoned eg:-

6 appointments of ENS

Statucor

Intervistas

Others I may not be aware of.

Yakhe Kwinana

Sent from my Samsung device

----- Original message -----

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Date: 08/09/2015 15:35 (GMT+02:00)



To: Yakhe Kwinana <yakhe@kwinana.co.za>, Yakhe Kwinana <yakhekwinana@gmail.com>
Cc: "John Tambi (johnt@nepad.org)" <johnt@nepad.org>, "Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net)" <tonydixon@telkomsa.net>, Ruth Kibuuka <RuthKibuuka@flysaa.com>
Subject: RE: Draft letter for your consideration

[REDACTED]

Dear Ms Kwinana

Following the meeting yesterday where you advised that the service provider has been engaged by the board.

I have since investigated the options available to regularise this transaction.

The applicable process will be a condonement. The forms for the condonement are available at compliance department. We have engaged the Company Secretary on the possibility of completing such condonement request based on the Board discussions and resolution.

Trusting that you find this in order.

Regards.

Thuli Mpshe | Acting Group CEO | Corporate

[REDACTED] Phone: +2711 978-2525 | [REDACTED] E-Mail: ThuliMpshe@flysaa.com

6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA



From: Ruth Kibuuka
Sent: 04 September 2015 03:30 PM
To: Thuli Mpshe
Subject: FW: Draft letter for your consideration

Dear Thuli,

Please see the attached draft Board resolution as requested.

Regards

Ruth Kibuuka | Company Secretary

Mobile: +27 083 531 6004 | Phone: +2711-978-6553 | Fax: +2711 978-1055 | E-Mail: RuthKibuuka@flvsaa.com

Floor 6, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Thuli Mpshe
Sent: 03 September 2015 04:46 PM
To: Yakhe Kwinana2; Yakhe Kwinana
Cc: M Dudu (dudumyeni@telkomsa.net); dudum@jacobzumafoundation.org.za; Tony Dixon (tonydixon@telkomsa.net)
(tonydixon@telkomsa.net); John Tambi (john@nepad.org); Masimba Dahwa; Ursula Fikelepi
Subject: FW: Draft letter for your consideration

Dear Ms Kwinana

Apologies for the delayed response. I have reviewed the attached and requested legal and procurement departments to provide guidance in this regard.



I am informed that the legal firm in question is not in our panel of legal service providers furthermore procurement informs that the procurement process was not followed in line with the SCM policy.

We are not certain if the value quoted is a fair one for the services to be rendered. A competitive bid process would have given us an idea of the value of the services by other service providers and provided us with a basis for comparison and therefore confirm that the value quoted is a fair.

In this regard, I would advise we follow the similar procurement process as was followed with the recent procurement of the other forensic auditors, namely an RFQ process where the value is below R500, 000 and an RFP where the value is above R500, 000. This will ensure that there is compliance with applicable laws and regulations, including the PFMA. Kindly provide me with the confirmation that the appropriate process was followed, otherwise this may result in a declaration of PFMA non-compliance.

Management is happy to provide the required assistance to ensure that there is full compliance.

Regards.

Thuli Mpshe | Acting CEO | Corporate

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com

6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Yakhe Kwinana2

Sent: 01 September 2015 03:51 PM

Two handwritten signatures are present at the bottom right of the page. The first signature is a stylized, cursive 'M' with a large loop. The second signature is a simpler, more linear cursive mark.

To: Thuli Mpshe
Cc: Yakhe Kwinana
Subject: FW: Draft letter for your consideration

Dear Ms Mpshe

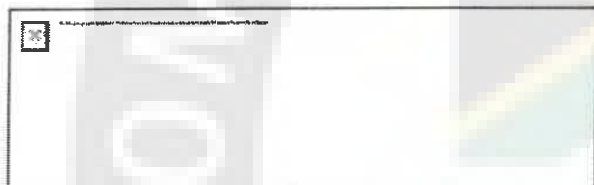
Please find attached do hope it is in order.

Kind Regards

Lana Lourens

KWINANA AND ASSOCIATES INC.

PERSONAL ASSISTANT TO YAKHE KWINANA (MD)



Tel 012 807 0801

Cel 072 456 8107

Fax 012 807 0622

Email lane@kwinana.co.za

Physical Address Alenti Office Park, Block H, 457 Witherite Street,
Die Wilgers Ext 82, Pretoria 0184

Postal Address PO Box 74423, Lynnwood Ridge, Pretoria 0040

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Please consider the environment before printing this message.

A handwritten signature in dark ink, followed by a set of initials 'R'.

From: Luvo [mailto:luvo24@yahoo.co.uk]
Sent: 28 August 2015 12:19 AM
To: Yakhe Kwinana <yakhe@kwinana.co.za>
Subject: Draft letter for your consideration

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Annexure “TM26”



**Johannesburg Office**

1st Floor, 357 Rivonia Boulevard
Rivonia
P O Box 3056
Rivonia
T: +27 (0) 11 234 9519
F2E: +27 (0) 86 770 8460

To: SOUTH AFRICAN AIRWAYS

Per email: yakhe@kwinana.co.za

Also @ Cape Town & Port Elizabeth



Our Ref: Luvo Makasi
Your Ref: Y Kwinana
Date: 21 August 2015
Email: luvo@boqwanaburns.com
brettm@boqwanaburns.com

Dear Sirs,

RE: LETTER OF ENGAGEMENT: INVESTIGATION OF CURRENT SAA CFO & FORMER SAA ACTING CEO

The above matter refers.

(1) Introduction

This letter serves to confirm your appointment of Boqwana Burns Incorporated to act as your attorneys, the main terms of instruction being to investigate the conduct and allegations made against the current CFO and former acting CEO of South African Airways and to make appropriate recommendations to the Board of SAA, pursuant to the investigation.

(2) Terms of business

The Boqwana Burns Incorporated terms of business recorded herein are an integral part of our appointment. All work carried out by Boqwana Burns Incorporated is subject to those terms except to the extent that changes are expressly agreed to in writing.

Directors: Irvine Armoed, Max Boqwana, Bob Makukunzva, Luvo Makasi, Ricky Stone
Associates: Brett Murison
Candidate Attorneys: Nonzaliseko Mahambehlala
Consultant: Denver Burns
Finance Manager: Lisa Grobler
Practice Development Manager: Paresh Raga
Company Registration Number: 2012/084819/21

bb...**(3) Scope**

You have instructed Boqwana Burns Incorporated to:

3.1 to investigate the conduct and allegations made against the current CFO and former acting CEO of South African Airways, which includes but not limited to:

- a) a loan facility procured or about to be procured by SAA without the appropriate approvals being obtained;
- b) opinion on the conduct of the CFO in relation to the procurement of the loan funding referred to above and the alleged unlawful recording of meetings by the CFO;
- c) Allegations made by an anonymous whistleblower with regards to a possible conflict of interest existing in respect of the erstwhile acting CEO of the South African Airways which may have caused financial losses to South African Airways, possible anti-competitive behavior and/or possible corruption in relation to various decisions, arrangements and agreements between South African Airways and Mango Airlines;
- d) Review the agreements between South African Airways and Mango pursuant to the allegations made against the former acting CEO of South African Airways; and

3.2 to provide necessary advice generally in all matters relating thereto.

(4) Professional team

Mr. Luvo Makasi shall be responsible for the overall supervision of your instructions. Additional resources will be made available to meet your requirements, as necessary. We will, where possible, keep you up to date in this regard.

(5) Our fees and expenses

Our fees will be calculated by reference to the time spent by the professionals (including Candidate Attorneys) dealing with your matter, in accordance with our terms of business. At this stage we estimate that our fees to conduct the preliminary investigations,



bb...

information gathering and opinion will not exceed R 200 000-00 (two hundred thousand rand) exclusive of VAT, note that this is an estimate only. Should we determine that our fees will exceed this estimated amount based on actual time spent and/or work carried out in order to carry out the instruction and scope of work as referred to above we will communicate with you before charging such fee. In the absence of agreement we will charge for the time spent and/or work carried out having due regard to the amount referred to herein.

Our fees are exclusive of VAT which is charged at the prevailing rate. They are also exclusive of travel, subsistence and all other disbursements. Any disbursements will be charged in addition to our fees and will be itemized separately on any invoice. Billing and payment of our invoice is to take place fortnightly or immediately after conclusion of the instruction, whichever happens first.

(6) Payments in Advance

We may ask you to pay sums on account of fees and expenses which are anticipated as the matter progresses. At this stage we may require R 50 000-00 (fifty thousand rand) as a security deposit, unless otherwise agreed upon between Boqwana Burns Inc and South African Airways. This amount will cover the initial cost of necessary consultation to gather relevant information and discussing the particular details of your instruction in order to provide the necessary advice, perform due diligence of the available documents and to launch the investigation.

(7) Your responsibility for our invoices

You are responsible for the payment of our fees and disbursements incurred whilst attending to your instructions.

(8) FICA

We refer you to our obligations in terms of the Financial Intelligence Centre Act, 2001. We require the following FICA documents from yourself:

- See terms of business form attached hereto

Should you have any queries in relation to this Appointment, please do not hesitate to contact the writer hereof.

(9) Agreement





If you have any queries in relation to this Appointment Letter, please do not hesitate to contact us.

(10) Payment of security deposit and account details

Our banking details for purposes of payment of the security deposit as well as our fees in the future are as follows:

BOQWANA BURNS INCORPORATED

BANK: NEDBANK

ACCOUNT NO. 1055268006

BRANCH CODE. 198765

REFERENCE. L Makasi/South African Airways

(Please sign the enclosed duplicate of this letter and return it to us as soon as possible).

Yours Faithfully

Per: Luvo Makasi
Boqwana Burns Inc.

Enclosed – Terms of business for Boqwana Burns Incorporated

Chairperson of Audit and Risk

Per: Acting-CEO of South African Airways



Ms Mpshe

Yakhe Kwinnana

4/9/2015



Annexure “TM27”





CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

Between

SOUTH AFRICAN AIRWAYS (SOC) LIMITED
(Registration Number 1997/022444/30)

and

BOQWANABURNS INC.

R yll
RQ

[Signature]

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1 PARTIES

1.1 The Parties to this Agreement are –

1.1.1 South African Airways (SOC) Limited ("SAA"); and

1.1.2 BOQWANA BURNS INC.

1.2 The Parties agree as set out below.

2 INTERPRETATION

2.1 In this Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

2.1.1 "Agreement" means this confidentiality and non-disclosure agreement;

2.1.2 "Associated Companies" means any company that the Discloser has a direct or indirect interest in which includes all subsidiaries and/or related companies;

2.1.3 "Confidential Information" means

2.1.3.1 all and any information or data in whatever form (including in oral, written, electronic and visual form) relating to the Discloser;

2.1.3.2 which by its nature or content is identifiable as, or could reasonably be expected to be, confidential and/or proprietary to the Discloser;

2.1.3.3 provided or disclosed in confidence by the Discloser to the Recipient; and

2.1.3.4 which the Discloser or any person acting on its behalf may disclose or provide to Recipient or which may come to the knowledge of the Recipient by whatsoever means. Without limitation, the Confidential Information shall include the following:

2.1.3.4.1 information relating to the Discloser's strategic objectives and planning;

2.1.3.4.2 information relating to Discloser's business activities, business relationships, products, services, customers and personnel;

2.1.3.4.3 the Discloser's technical, scientific, commercial, financial and market



information, jet fuel volumes, jet fuel prices and trade secrets; and

2.1.3.4.4 agreements to which the Discloser is a party;

The determination of whether information is Confidential Information shall not be affected by whether or not such information is subject to, or protected by, common law or statute related to copyright, patent, trademarks or otherwise

2.1.4 "Discloser" means South African Airways (SAA) Limited (SAA), a state-owned company duly incorporated in accordance with the company laws of the Republic of South Africa, and for purposes of this Agreement shall include including the Associated Companies, herein represented by Ruth Kibuuka

2.1.5 "Exclusions" means the circumstances in which the undertakings given by the Recipient in this Agreement are not applicable, as described in clauses 6.3.1 to 6.3.4;

2.1.6 "Parties" means the parties to this Agreement and "Party" shall mean either of them as the context dictates;

2.1.7 "Purpose" means investigation in respect of the long term debt funding, whistle blower allegations & secret recordings

2.1.8 "Recipient" means Botswana Burns Inc. and

2.1.9 "Signature Date" means the date of signature of this Agreement by the Party last signing.

2.2 In this Agreement -

2.2.1 clause headings and the heading of the Agreement are for convenience only and are not to be used in its interpretation;

2.2.2 an expression which denotes -

2.2.2.1 any gender includes the other genders;

2.2.2.2 a natural person includes a juristic person and *vice versa*;

2.2.2.3 the singular includes the plural and *vice versa*; and

2.2.2.4 a Party includes a reference to that Party's successors in title and assigns allowed at law.



- 2.3 Any reference in this Agreement to –
- 2.3.1 "business hours" shall be construed as being the hours between 08h30 and 17h00 on any business day. Any reference to time shall be based upon South African Standard Time; and
- 2.3.2 "days" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time.
- 2.4 The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 2.5 Any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions in this clause 2 or elsewhere in this Agreement, shall be given effect to as if it were a substantive provision in the body of the Agreement.
- 2.6 Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement.
- 2.7 Unless otherwise provided, defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 2.8 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.
- 2.9 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 2.10 Any reference in this Agreement to "this Agreement" or any other agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.

The bottom of the page features several handwritten signatures and initials. On the left, there is a large, stylized signature. To its right is a smaller, more fluid signature. Further right, there are initials that appear to be 'JL'. On the far right, there is another signature that looks like 'RO'.

- 2.11 In this Agreement the words "clause" or "clauses" refer to clauses of this Agreement.

3 RECORDAL

- 3.1 It is the intention of the Discloser to enter into discussions with the Recipient in relation to the Purpose.
- 3.2 During the course of the aforesaid discussions, the Discloser will be disclosing certain Confidential Information to the Recipient pertaining to various aspects of its business. The Recipient acknowledges the importance of the Confidential Information to the Discloser and recognises that the Discloser and/or third party proprietors may suffer irreparable harm or loss in the event of such information being disclosed or used otherwise than in accordance with this Agreement.
- 3.3 In the circumstances, the Recipient is willing to provide the Discloser with an undertaking in regard to maintaining the confidentiality of any Confidential Information (and not disclosing it) and in regard to matters related thereto, on the terms and conditions set out herein.

4 DISCLOSURE AND USE OF CONFIDENTIAL INFORMATION

- 4.1 The Discloser undertakes to disclose to the Recipient such Confidential Information as may be in the possession of the Discloser and as will, in the sole and absolute discretion of the Discloser, be necessary for the Recipient to conduct the discussions contemplated in clause 3.1.
- 4.2 the Recipient acknowledges that -
- 4.2.1 the Confidential Information is a valuable, special and unique asset of the Discloser; and
- 4.2.2 the Discloser may suffer irreparable harm or substantial economic and other loss in the event of such Confidential Information being disclosed or used otherwise than in accordance with this Agreement.
- 4.3 All Confidential Information disclosed by the Discloser to the Recipient or which otherwise comes to the knowledge of the Recipient, is acknowledged by the Recipient -
- 4.3.1 to be proprietary of the Discloser; and
- 4.3.2 not to confer any rights of whatsoever nature in such Confidential Information

Handwritten signatures and initials at the bottom of the page, including a large stylized signature on the left, the initials 'YK' in the center, and a circular mark on the right.

on the Recipient.

- 4.4 the Recipient Irrevocably and unconditionally agrees and undertakes -
- 4.4.1 to treat and safeguard the Confidential Information as strictly private, secret and confidential;
- 4.4.2 not to use or permit the use of the Confidential Information for any purpose other than in relation to the Purpose and as contemplated under clause 3.1 above and, in particular, not to use or permit the use of the Confidential Information, whether directly or indirectly, to obtain a commercial, trading, investment, financial or other advantage over the Discloser or otherwise use it to the detriment of the Discloser;
- 4.4.3 except as permitted by this Agreement, not to disclose or divulge, directly or indirectly, the Confidential Information in any manner to any third party for any reason or purpose whatsoever without the prior written consent of the Discloser, which consent may be granted or withheld in the sole and absolute discretion of the Discloser;
- 4.4.4 not to copy or reproduce the Confidential Information by any means without the prior written consent of the Discloser, it being recorded that any copies shall be and remain the property of the Discloser; and
- 4.4.5 to keep all Confidential Information safely and securely and to take all such steps as may be reasonably necessary to protect it against theft, damage, loss, unauthorised access (including access by electronic means) and to prevent Confidential Information from falling into the hands of unauthorised third parties.

5 RETURN OF CONFIDENTIAL INFORMATION

- 5.1 The Recipient shall, where applicable, at its own expense, within 7 (seven) business days of termination of the Purpose, and in any event within 2 (two) business days of written demand from the Discloser -
- 5.1.1 return or destroy (as stipulated by the Discloser), and procure the return or destruction of all Confidential Information and all copies of it (whether in paper, electronic or other format) held by the Recipient, without keeping any copies or partial copies thereof;
- 5.1.2 destroy, and procure the destruction of all analyses, compilations, notes,



studies, memoranda or other documents prepared by the Recipient, which contain or otherwise reflect or are generated from the Confidential Information;

5.1.3 delete or procure the deletion of all Confidential Information from any computer, word processor or other device in the possession or control of the Recipient; and

5.1.4 confirm in writing to the Discloser that the Recipient has complied with the provisions of clauses 5.1.1 to 5.1.3.

5.2 For the avoidance of doubt, the obligations of confidentiality contained in this Agreement will continue to apply to such retained Confidential Information.

6 EXCLUSIONS

6.1 The determination of whether Information is Confidential Information shall not be affected by whether or not such information is subject to, or protected by, common law or statute related to copyright, patent, trade marks or otherwise.

6.2 If the Recipient is uncertain as to whether any Information is Confidential Information, the Recipient shall treat such information as confidential until the contrary is agreed by the Discloser in writing.

6.3 The undertakings given by the Recipient in this Agreement and in particular in clause 4 shall not apply to any information which –

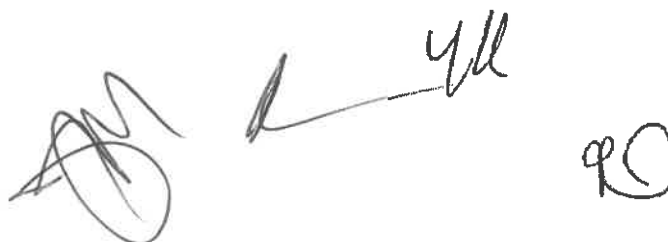
6.3.1 is or becomes generally available to the public other than by the negligence or default of the Recipient, or by the breach of this Agreement by any of them;

6.3.2 the Discloser confirms in writing that such information is disclosed on a non-confidential basis;

6.3.3 is disclosed pursuant to a requirement or request by operation of law, regulation or court order; or

6.3.4 has lawfully become known by or come into the possession of the Recipient on a non-confidential basis from a source other than the Discloser having the legal right to disclose same, provided that such knowledge or possession is evidenced by the written records of the Recipient existing at the Signature Date,

provided that –



- 6.3.5 the onus shall at all times rest on the Recipient to establish that such information falls within the Exclusions;
- 6.3.6 information will not be deemed to be within the Exclusions merely because such information is embraced by more general information in the public domain or in the Recipient's possession; and
- 6.3.7 any combination of features will not be deemed to be within the Exclusions merely because individual features are in the public domain or in the Recipient's possession, but only if the combination itself and its principle of operation are in the public domain or in the Recipient's possession.


7 FORCED DISCLOSURE

In the event that the Recipient is required to disclose Confidential Information pursuant to a requirement or request by operation of law, regulation or court order, it will –

- 7.1 advise the Discloser thereof in writing prior to disclosure, if possible;
- 7.2 take such steps to avoid and to limit the disclosure to the minimum extent required to satisfy such requirement and to the extent that it lawfully and reasonably can;
- 7.3 afford the Discloser a reasonable opportunity, if possible, to intervene in the proceedings;
- 7.4 comply with the Discloser's reasonable requests as to the manner and terms of any such disclosure; and
- 7.5 notify the Discloser of the recipient of, and the form and extent of, any such disclosure or announcement immediately after it is made.

8 DURATION

The obligations of the Recipient with respect to each item of Confidential Information in its possession shall commence on the date on which such Information is disclosed or otherwise received (whether before or after the Signature Date) and shall endure until withdrawn in writing by South African Airways SOC Ltd.] The obligations referred to in clause 4 shall endure notwithstanding any termination of the discussions referred to in clause 3.1 or any subsequent engagement entered into between the Parties as a result of the Purpose.

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9 BREACH AND INDEMNITIES

- 9.1 Without prejudice to the other rights of the Discloser, in the event of any unauthorised disclosure or use of the Confidential Information which is or is reasonably likely to constitute a breach of any provision of this Agreement, the Recipient shall –
- 9.1.1 immediately notify the Discloser in writing and take such steps as the Discloser may reasonably require in order to remedy or mitigate the effects of such actual or threatened breach; and
- 9.1.2 use all reasonable commercial endeavours to assist the Discloser in recovering and preventing the use, dissemination, sale or other disposal of such Confidential Information.
- 9.2 The Parties acknowledge and agree that –
- 9.2.1 cancellation is not an appropriate remedy for breach of this Agreement and this Agreement may not be cancelled or terminated save by written agreement between the Parties; and
- 9.2.2 damages alone may not be an adequate remedy for any breach of the obligations set out in this Agreement and that the remedies of interdict, specific performance and any other equitable relief are appropriate for any threatened or actual breach of this Agreement. The Discloser will be entitled to apply for such remedy, in addition to any other remedy to which it may be entitled in law (other than the remedy of cancellation).
- 9.3 Without prejudice to clause 9.2, the Recipient accepts full liability for the maintenance of the confidentiality of the Confidential Information and hereby unconditionally and irrevocably indemnifies and holds the Discloser harmless against any and all loss, action, expense, claim, harm or damages of whatsoever nature suffered or sustained by the Discloser pursuant to a breach or threatened breach by the Recipient of the provisions of this Agreement.
- 9.4 Should any unauthorised disclosure of Confidential Information take place in breach of the provisions of this Agreement, the Discloser shall, in addition to the foregoing, be entitled by written notice to the Recipient to terminate all obligations to provide information to the Recipient with immediate effect and no further information will be disclosed to the Recipient in terms of this Agreement.

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10 NO WARRANTY

Unless otherwise specifically stated in writing, the Discloser –

- 10.1 does not give or make any warranty, representation or undertaking, express or implied, as to the accuracy or completeness of any of the Confidential Information or other information received by the Recipient as to the reasonableness of any assumptions on which any of the same is based;
- 10.2 does not accept any responsibility or liability for the use of the Confidential Information by the Recipient; and
- 10.3 is under no obligation to update or correct any inaccuracies which may become apparent in any of the Confidential Information.

11 BENEFIT

- 11.1 The undertakings given by the Recipient in this Agreement shall be for the benefit of and may be enforced by the Discloser, any of its Associated Companies and any successors-in-title. The undertakings shall be deemed to have been imposed as a *stipulation alteri* for the benefit of any Associated Companies and any successor-in-title and such benefit may be accepted by such person at any time. The fact that any undertaking may not be enforceable by one of them will not affect its enforceability by any other party.
- 11.2 For the purposes of clause 11.1, the term "successors-in-title" shall include any third party which acquires –
 - 11.2.1 the business of the Discloser, or any of its associated entities or any part thereof; or
 - 11.2.2 pursuant to any cession, the right to enforce the undertakings embodied in this Agreement.

12 NOTICES AND DOMICILIA

- 12.1 The Parties select as their respective *domicilia citandi et executandi* the following physical addresses, and for the purposes of giving or sending any notice provided for or required under this Agreement, the said physical addresses as



well as the following telefax numbers -

<u>Name</u> the Discloser	<u>Physical Address</u> Air ways Park OR Tambo International Airport Jones Road Kempton Park 1627	<u>Telefax / Email</u> (011) 978 1055/ ruthkibuuka@flysaa.com
-------------------------------------	---	--

Marked for the attention of: Ruth Kibuuka: Company Secretary

<u>Name</u> the Recipient	<u>Physical Address</u> 1 st Floor, 357 Rivonia Boulevard	<u>Telefax / Email</u> luvo@boqwanaburns.com
-------------------------------------	---	---

Marked for the attention of: Luvo Makasi

provided that a Party may change its *domicilium* or its address for the purposes of notices to any other physical address or telefax number by written notice to the other Party to that effect. Such change of address will be effective 5 (five) business days after receipt of the notice of the change.

- 12.2 All notices to be given in terms of this Agreement will be given in writing and will –
- 12.2.1 be delivered by hand or sent by telefax;
 - 12.2.2 if delivered by hand during business hours, be presumed to have been received on the date of delivery. Any notice delivered after business hours or on a day which is not a business day will be presumed to have been received on the following business day; and
 - 12.2.3 If sent by telefax during business hours, be presumed to have been received on the date of successful transmission of the telefax. Any telefax sent after business hours or on a day which is not a business day will be presumed to have been received on the following business day.
- 12.3 Notwithstanding the above, any notice given in writing, and actually received by the Party to whom the notice is addressed, will be deemed to have been properly

given and received, notwithstanding that such notice has not been given in accordance with this clause 12.

13 APPLICABLE LAW AND JURISDICTION

- 13.1 This Agreement will in all respects be governed by and construed under the laws of the Republic of South Africa.
- 13.2 The Parties hereby consent and submit to the non-exclusive jurisdiction of the South Gauteng High Court, Johannesburg in any dispute arising from or in connection with this Agreement.

14 UNDERTAKINGS BY PERSONNEL

Notwithstanding the Discloser not requiring a written undertaking from each of the Recipient's personnel with access to the Confidential Information, the Recipient warrants that its personnel, who have access to the Discloser's Confidential Information, shall ensure the confidentiality of the Discloser's Confidential Information on substantially the same terms and conditions contained within this Agreement.

15 GENERAL

15.1 Whole Agreement

- 15.1.1 This Agreement constitutes the whole of the agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no underlaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on either of the Parties.

- 15.1.2 This Agreement supersedes and replaces any and all agreements between the Parties (and other persons, as may be applicable) and undertakings given to or on behalf of the Parties (and other persons, as may be applicable) in relation to the subject matter hereof.

15.2 Variations to be in Writing

No addition to or variation, deletion, or agreed cancellation of all or any clauses or provisions of this Agreement will be of any force or effect unless it is reduced to writing and signed by the Parties.

15.3 No indulgences

The bottom of the page features three handwritten marks. On the left is a stylized signature. In the center is a signature with a long horizontal line extending to the right. On the right are the initials 'uk' and 'RC' stacked vertically.

No latitude, extension of time or other indulgence which may be given or allowed by any Party to the other Parties in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from this Agreement, and no single or partial exercise of any right by any Party under this Agreement, shall in any circumstances be construed to be an implied consent or election by such Party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of or arising from this Agreement or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

15.4 Provisions Severable

All provisions and the various clauses of this Agreement are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of this Agreement which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions and clauses of this Agreement shall remain of full force and effect. The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

15.5 No Assignment

Neither this Agreement nor any part, share or interest herein nor any rights or obligations hereunder may be ceded, delegated or assigned by either Party without the prior written consent of the other Party, save as otherwise provided herein.

16 COSTS

16.1 Each Party will bear and pay its own legal costs and expenses of and incidental to the negotiation, drafting, preparation and implementation of this Agreement.

16.2 The Recipient agrees and undertakes to reimburse the Discloser on demand with any and all costs and expenses (including legal costs on the scale as between attorney-and-own client) which the Discloser may at any time incur in or about the exercise of any of the Discloser's rights in terms of this Agreement, including collection commission, tracing fees and other expenses in connection therewith.

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17 ADVERTISING AND MARKETING

Neither Party shall make or issue any formal announcement, advertisement or statement to the press in connection with this Agreement or otherwise disclose the existence of this Agreement or the subject matter hereof to any other person without the prior written consent of the other Party.

18 SIGNATURE

- 18.1 This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement as at the date of signature of the Party last signing one of the counterparts.
- 18.2 The Parties record that it is not required for this Agreement to be valid and enforceable that a Party shall have its signature of this Agreement verified by a witness.
- 18.3 The Parties acknowledge that the signatories to this Agreement are duly authorised representative of each Party and as such any subsequent discovery that the Recipient's representative is not duly authorised shall not affect the enforceability of this Agreement and the attached remedies available to the Discloser.

SIGNED at Kempton Park on 29 October 2015

For and on behalf of
SOUTH AFRICAN AIRWAYS (SOC)
LIMITED

Signature

Yakhe Kwinana

Name of Signatory

Chairperson of Audit &

Designation of Signatory

Risk Committee

[Handwritten signatures]

SIGNED at Kempton Park on 29 October 2015.

For and on behalf of
**SOUTH AFRICAN AIRWAYS (SOC)
LIMITED**

Signature

Yakhe Kwinana

Name of Signatory

Chairperson of Audit + Risk
Committee.

Designation of Signatory

SIGNED at JOHANNESBURG on 19 OCTOBER 2015.

For and on behalf of
Boqwana Burns Inc.

Signature

BOB MAKUKUNZIA

Name of Signatory

DIRECTOR

Designation of Signatory

[Handwritten signatures]

Annexure “TM28”





SOUTH AFRICAN AIRWAYS
FLYSAA.COM

South African Airways
Company Secretary
Suite 2, 6th Floor
Airways Park
1627

Private Bag X13
ORT International Airport
1627

Tel: 27 11 978-6553
Fax: 27 11 978-2545

Email: companysecretary@flysaa.com

EXCERPT FROM THE DRAFT CLOSED SESSION MINUTES OF THE SOUTH AFRICAN AIRWAYS SOC LTD BOARD OF DIRECTORS MEETING NO 2015/05 HELD ON FRIDAY 26 AUGUST 2015 IN THE BOARDROOM, 6TH FLOOR AT SAA, AIRWAYS PARK, JONES ROAD, KEMPTON PARK, AT 09H00

Other Investigation Matters

it was **RESOLVED** that:

- (a) Mr. Luvo Makasi be appointed to investigate the allegations against the Mango CEO arising from the whistle-blowers report, the R15 billion funding RFP issued by the CFO and the CFO's recording of the Chairperson using a hidden recording device;
- (b) Mr. Makasi should be appointed for a period of two weeks;
- (c) The Board hereby authorises deviation from the normal procurement process and in the appointment of Mr. Makasi as resolution of the issues to be investigated was of paramount importance to the Board and extremely urgent.
- (d) The process to be followed in appointing Mr. Makasi should be the same process utilised to appoint ENSAfrica to investigate the GECAS whistle-blower's report.

Certified a true extract of the draft minutes.

Ruth Kibuuka
Company Secretary

Date: 13/10/2015



Directors

DC Myani* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

Annexure “TM29”



RE: Extract of the Board resolution

Ruth Kibuuka <RuthKibuuka@flysaa.com>

13/10/2015 at 12:09:16

From: Ruth Kibuuka <RuthKibuuka@flysaa.com>
Sent: 13/10/2015 at 12:09:16
To: Yakhe Kwinana2 <yakhe@kwinana.co.za>, 'nickl@theprojectoffice.com' <nickl@theprojectoffice.com>
Cc:

1 Attachment(s) Total 29.8 KB View ^

Other Investigation Matters.pdf (29.8 KB)

Dear Yakhe,

Please see attached Board resolution as requested.

Regards

Ruth Kibuuka | Company Secretary

☐ Mobile: +27 083 531 6004 | ☐ Phone: +2711-978-6553 | ☐ Fax: +2711 978-1055 | ☐ E-Mail: RuthKibuuka@flysaa.com

Floor 6,Block A,Airways Park,OR Tambo International- Johannesburg- SOUTH AFRICA

From: Yakhe Kwinana2
Sent: 12 October 2015 07:06 PM
To: Ruth Kibuuka; 'nickl@theprojectoffice.com'
Subject: FW: Extract of the Board resolution

Dear Ruth

Can you provide information.

Best Regards

Yakhe Kwinana

Tel 012 807 0801

Fax 012 807 0633

Cell 079 950 0610

Email yakhe@kwinana.co.za

Physical Address Alenti Office Park, Block H, 457 Witherite Street, The Willows Ext 82, Pretoria, 0184

From: Nick Linnell [mailto:nickl@theprojectoffice.com]

Sent: 12 October 2015 07:00 PM

To: Yakhe Kwinana <yakhe@kwinana.co.za>

Subject: RE: Extract of the Board resolution

Hi Yakhe

Do we have a resolution appointing Luvo?

Thanks nick

Nick Linnell

Description: cid:image001.jpg@01CC80C6.770814C0

email: nickl@theprojectoffice.com

cell: 083 488 1000

tel: 021 447 0154

fax: 086 272 1456

www.theprojectoffice.com

The Project Office

Company Registered Office 22 Melkhout Crescent | Platteklouf 3 | 7500

Directors: N H Linnell | M Green

Postal Add PO Box 15813 | Panorama | 7506

From: Yakhe Kwinana [mailto:yakhe@kwinana.co.za]

Sent: Monday, 12 October 2015 9:52 AM

To: rashidwally@gmail.com

Cc: 'nickl@theprojectoffice.com'

Subject: FW: Extract of the Board resolution

Please find the Resolution

Best Regards



Yakhe Kwinana

Tel 012 807 0801

Fax 012 807 0633

Cell 079 950 0610

Email yakhe@kwinana.co.za

Physical Address Alenti Office Park, Block H, 457 Witherite Street, The Willows Ext 82, Pretoria, 0184

From: Ruth Kibuuka [mailto:RuthKibuuka@flysaa.com]

Sent: 12 October 2015 09:22 AM

To: Yakhe Kwinana <yakhe@kwinana.co.za>

Subject: Extract of the Board resolution



Dear Yakhe,

Please find herewith the Board resolution on the whistle-blower report as requested.

Regards

Ruth Kibuuka | Company Secretary

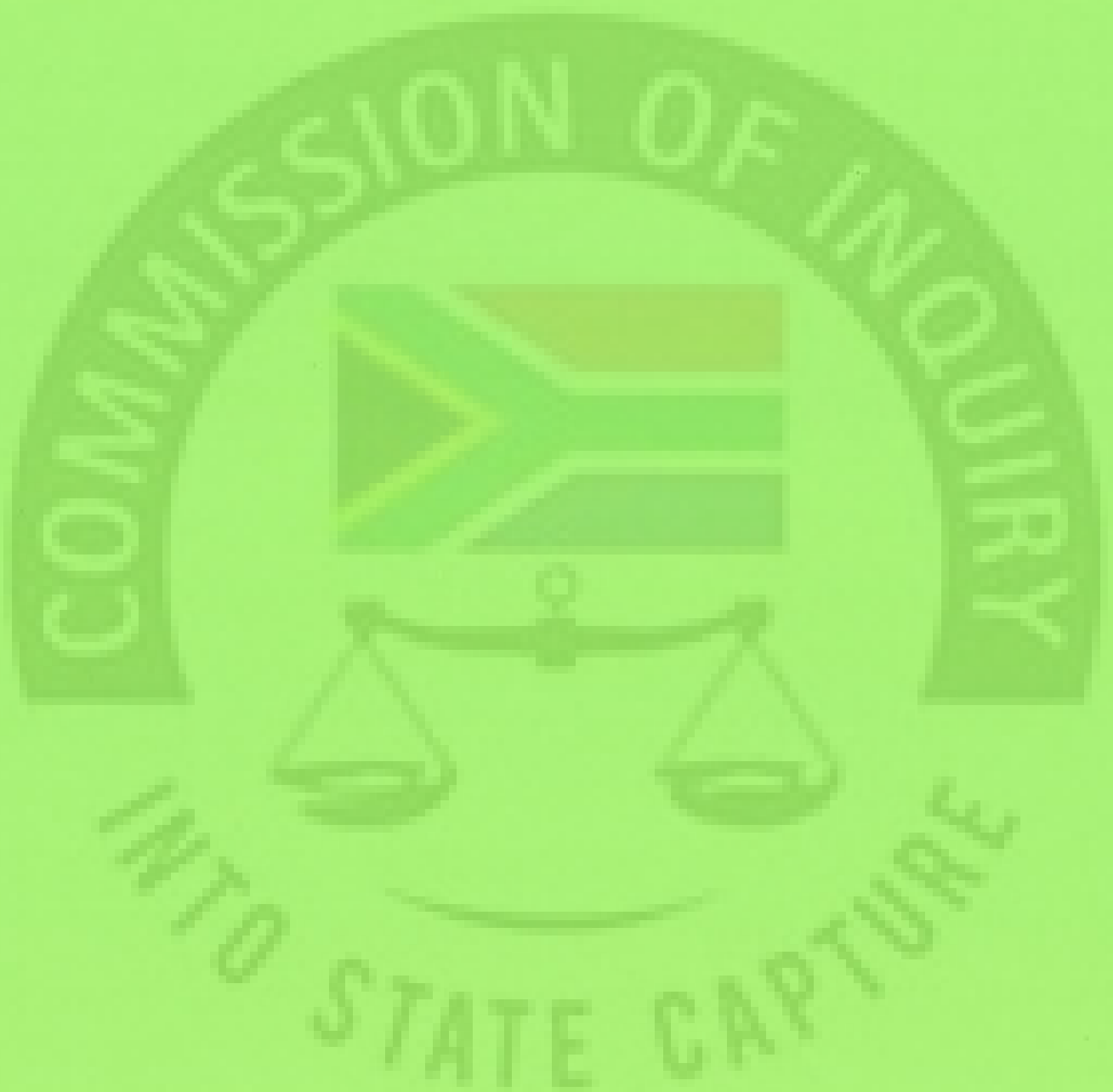
☐ Mobile: +27 083 531 6004 | ☐ Phone: +2711-978-6553 | ☐ Fax: +2711 978-1055 | ☐ E-Mail: RuthKibuuka@flysaa.com

Floor 6,Block A,Airways Park,OR Tambo International- Johannesburg- SOUTH AFRICA



[Handwritten signature]
[Handwritten initials]

Annexure “TM30”



Andrew A. Kearthland

From: Nkosana <nkosanascommissionsc@flysaa.com>
Sent: Tuesday, 26 March 2019 12:45
To: Andrew A. Kearthland
Subject: FW: RE: Appointment of Boqwana Burns

From: "Thuli Mpshe" <ThuliMpshe@flysaa.com>
Date: 07/11/2015 at 20:18:33
To: "Wolf Meyer" <WolfMeyer@flysaa.com>
Cc: "Siyakhula Vilakazi" <SiyakhulaVilakazi@flysaa.com>,"Yakhe Kwinana2" <yakhe@kwinana.co.za>,"Duduzile Myeni" <dudumyeni@telkomsa.net>,"Masimba Dahwa" <MasimbaDahwa@flysaa.com>,"Ruth Kibuuka" <RuthKibuuka@flysaa.com>
Subject: RE: Appointment of Boqwana Burns

Dear Wolf

Trust you are well this evening. The email below and the contents thereof are noted.

We will revert to you in due course.

Regards.

Thuli Mpshe | Acting Group CEO

 Phone: +2711 978-2525 |  E-Mail: ThuliMpshe@flysaa.com

6th Floor,C Block,Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Wolf Meyer
Sent: 07 November 2015 12:27 PM
To: Thuli Mpshe
Cc: Siyakhula Vilakazi; Yakhe Kwinana2; Duduzile Myeni; Masimba Dahwa; Ruth Kibuuka
Subject: FW: Appointment of Boqwana Burns



Dear Acting CEO

It has come to my attention that Boqwana Burns (BB) had approached SAA staff members for information under the following brief - ***“Request for Information in respect of Long Term Debt Funding, Whistle Blower allegations and secret recordings.”***

Notwithstanding the fact that the investigation is aimed against the CFO and that I would not interfere in such investigation, I would like to bring to your attention that it appears as if there exists irregularities in the appointment of BB which could later prove to be embarrassing for SAA should it be reported by auditors as a governance transgression by the Board.

Firstly, there is no evidence that a proper procurement process had been followed. Normally, in terms of the company's SCM policies, an open tender would have to be followed which is preceded by an RFI process. The policy does allow for a confinement tender based on certain criteria. However, it cannot be proven that BB is the only supplier that can provide these services. I am not sure how this service provider was selected. The SCM Policy and normal good corporate governance principles certainly do not provide for non-executive board members to directly engage with potential service providers and, without involving the Procurement Department, award services contracts.

Secondly, engagements with BB commenced and the service contract awarded without the signing of the appropriate Non-Disclosure Agreement (NDA). This means that information about the company was divulged to an external party before entering into any NDA agreement which could prove extremely risky. This only transpired after BB had approached SAA staff advising them of the appointment and requesting some information. It was confirmed by the Company Secretary's Office that the request had been approved by the Board and that there was no signed NDA, and that one would be drawn up and signed. On 4 November 2015, the Company Secretary's office sent through a copy of the NDA, which was signed by BB on 19 October 2015 and by Ms Yakhe Kwinana on 29 October 2015, a non-executive board member in her capacity as Chairperson of the Audit and Risk Committee. The NDA requires two different signatures, however, Ms Kwinana opted not to involve anybody else from SAA and to sign twice on the agreement. It is, once again, highly unusual for a non-executive board member to sign documents which normally fall within the executive responsibility of management.

A call for an investigation of this nature is, no doubt, well within the powers of a board and may well be initiated and mandated by the Board. However, it could be deemed inappropriate that the selection and actual awarding of such assignment be done by a non-executive board member without following the company's SCM policies in procuring such service. It is certainly a gross transgression of the company's procurement policies and procedures.

Two handwritten signatures are present at the bottom right of the page. The first is a large, stylized signature, and the second is a smaller, more cursive signature.

I therefore recommend that, prior to allowing BB to proceed with this investigation, Internal Audit conducts a review and comment on the appropriateness of the process followed in the appointment of Baqwana Burns.

I trust that my recommendation meets your approval.

Best regards

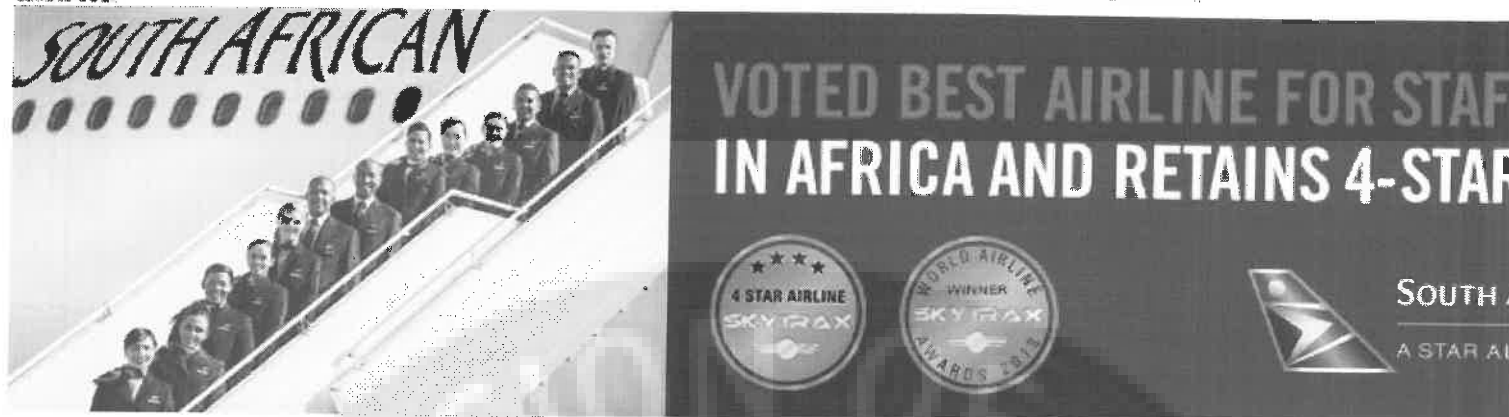
Wolf Meyer | CFO

Mobile: +2771-171-2345 | Phone: +2711-978-1515 | E-Mail: WolfMeyer@flysaa.com

4th floor, block C Airways Park, OR Tambo International Airport- Johannesburg- South Africa

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Directors

JB Magwaza* (Chairperson), V Jarana (Group Chief Executive Officer), Al Bassa*, ML Kingston*, HP Maluleka*, TN Mgoduso*, T Mhiani*, AH Moosa*, G Rothschild*, MP Tshisevhe*

*Non-Executive Director
*British Citizen

Company Secretary – RN tGbuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

Annexure “TM31”



Transcription: Meeting with Yakhe Kwinana: 30 August 2016

Y: Yakhe Kwinana

I: Ivan

R: Rethabile

Transcription:

(Y enters boardroom.)

I: Hello Yakhe, how are you?

Y: Fine thanks and How are you?

I: Pleased to meet you, have a seat. Have you ordered anything, water?

Y: Pleased to meet you, yes I have ordered water, but I need to first go to the bathroom

(Y shown out by R, returns 5 minutes later)

I: Y this is my colleague, have you met Rethabile?

Y: Pleased to meet you

Y: (Nervous laughter): The reason why I'm here is because of your article in Fin24

I: Which date?

Y: Saturday, the 27'th. Basically this article I might not quote it as it is, but this article, ok my name is Yakhe Kwinana, former non-executive Director of SAA

I: Head of Audit and Risk

Two handwritten signatures are present at the bottom right of the page. The first signature, on the left, is a stylized, cursive signature that appears to be 'Ivan'. The second signature, on the right, is a simpler, more direct signature that appears to be 'Rethabile'.

Y: Chairperson of Audit and Risk, yes. And this heading is saying that "I can run away but I cannot hide" yes, and then you said "of course we are going to take me and Dudu Myeni to court

I: Amongst others

Y: Amongst others yes, and then you are also going to report me to my organisation's professional bodies. Now what I am here for is I want to find out what is the reason, and what is it that I need to do. I don't mind you taking me to my professional bodies, because I will not incur any costs in respect of you taking me to the professional bodies. But obviously, if you take me to court, I will have to incur the legal costs, which basically my company will not be able to finance those expenses. And especially that like for instance if I was still at SAA, maybe SAA would be able to pay for us to defend against you, but now the reason that I am here and I am here alone is that I know that our company is such a small company, and it will not be able to pay for the defense. Not that I have got anything to hide, but I'm looking at the legal implications, and the cost that my company would have to incur to try and defend this whole thing, so basically that is why I am here.

I: Ok good, ja, thank you for calling. Rethabile actually said that she expected that you were going to call, she had a hunch.

R: That's the women, we always do that. That's the intuition.

I: So ok, Y as you know, we've been looking into SAA for a few months now, this is not an isolated event, we have interviewed just short of 50 witnesses relating to SAA, various persons, various contracts, various events, we have a lot of documentation, there are a lot of versions of what happened, who failed to do what, what the board was doing, what internal controls and functions within the board have not been working, we've consulted with very senior lawyers and advocates, we have a team put together at this stage. I can tell you know that some of the failures by the organisation and by yourself as chair of audit and risk and as a board member border on criminal. Its funny seeing you, I've been reading about you and thinking about you and talking about you for a while now.



Y: What have you been saying?

I: You've seen what I've been saying. We had a call together on SAFM the other day, and I actually hoped, I specifically asked them if we could talk to each other instead of me saying my say and you saying your say, because then we never confront each other, and it's not me as a person, it's our mandate, our organisation's mandate is to fight the abuses of taxes. We see the abuse of tax funds as any person in any position of power not exercising their role diligently, prudently and with skill when they are required to do so to protect the country and to protect the companies of this country. There were a lot of allegations in the news, we started broad and started following up, and then people starting coming forward. We know everything, from the EY reports, to the BNP Capital thing. Everything isn't out there that we know. We know of the connections with Mr Mngadi. We know about Mr Mngadi and Inline trading, we know how they muddled behind the screens. As we are speaking now the national prosecuting authority are investigating behind the scenes, people very high up. Of course I cannot tell you who they are so they cannot be reached. I've heard rumours that you and Dudu are not seeing eye to eye any more. I don't know if that's true, I don't know if you want to talk about that or not. I can tell you that one of the considerations for us is that if you want to talk, and you want to be candid and you have things to say that we can discuss the way forward. It doesn't need to be every single... remember your position as chair of audit and risk is seen as a direct correlation to your professional capacity. Every single public finance management or company failure in that position is going to be drawn directly to your professional body. I can promise you now that it could result, and will most likely result in you losing your professional accreditation. Furthermore because your company does audit, and in your capacity as chair of audit and risk, you failed to exercise your duty to function as internal control over such a protracted period it is likely to result in treasury putting your company on the restricted supplier database as long as you are still involved with the company. That's where we are now. If you want to discuss the way forward, I have nothing against you as a person, Rethabile has nothing against you as a person. Our primary concern is that those controls that should function for Government to protect the people, and to save costs for South Africa so we can do other projects, so we can help people and serve this country the best we can, function at high levels, that's it.



No personal vendetta. I know you as a human being, you're a fellow human being and that's it, that's what I have to say at this stage, the floor is yours.

Y: Of course, what you have said I have read it somewhere, and you've had (mumbling) to me, but as I said, my only concern, my only concern, is the legal costs I would have to incur, and more especially that I no longer work at SAA, therefore, and as I said, I've got nothing to worry about, and also have nothing to worry about in terms of discharging my responsibilities as chairperson of audit at the time, I did the best I could do under the circumstances. You say how do we take this thing forward? I am pleading with you, to remove my name in your court documents. You can continue reporting me at SAICA. You can continue reporting me at IRBA. I don't have a problem with that, because I've got with them I don't have to defend the case, how they operate they will write to me and say "these are the allegations against you." And then I can say yes this is correct and this is not correct and maybe they will state all of that. And then, if the response is not satisfactory, they will send their own people in the office to investigate that, at no cost to our company. But the court one, to say I am against that I am not agreeing with what OUTA is saying, that will have to be proven in court, and can you imagine the cost implications of going to court, then I would be liquidated.

I: It's not going to be less than R5 Million.

Y: Exactly. Exactly.

I: So look, we differ, we differ from you that you don't have a case to answer. The case will be put forward to you and you will have...

Y: Of course, of course the case will be put forward to me, for instance if we look at BNP. Maybe they can say as we have been saying I appended my signature, but you are not going further to say I appended my signature with conditions, which basically is the condition that I thought was also a safe, so to say, that in the event that there is anything wrong, then the legal process will make sure that whatever is wrong, that we do not see in the (inaudible), where we take care

A handwritten signature in black ink, consisting of a stylized, cursive 'M' followed by a horizontal line.

R: Which one exactly are we referring to? Are we referring to the round robin for the confinement, or the suggested round robin with regards to the cancellation?

Y: No that one where I approved with a condition (the confinement), and then the cancellation, I disagreed.

R: So in as far as the conditions are concerned regarding the confinement, are we at liberty to be presented with the conditions as you stated.

Y: No the conditions I said as long as legal requirements are met, legal requirements meaning that, is it fine for us to give BNP capital, is the confinement fine. Yes, the confinement is fine. Do they have a license? Are they in a position to give us this money. So basically as long as everything is fine, legally, then we are happy.

R: Are we talking now verbally in as far as these conditions (interrupted)

I: She wrote it in brackets, she wrote it in brackets next to her signature. Ok, you see, the unfortunate thing is, the law holds you to a higher standard when it comes to that. The law requires that you, especially a person of your calibre, to actually see in front of you that those requirements have been met, before anything can continue, that's what the law requires. It would not help, I'm a lawyer, you're not, we can't debate law here. So I understand your concern, and it is a major concern, it will have an enormous impact on your life, your business, your family, everybody. But you know there have been a lot of families of people within SAA, of people who have been victimised, in my opinion, and in their opinion, by yourself, by the board, by people drumming up charges against them. All of those people will be proven innocent. And the pain caused to their families, and I know, my mother used to work for government, the same happened to her, and it hurts, it hurts people in their homes. And that's what happened, to a few people. There's been a purging exercise, and this is our opinion, there's been a purging exercise by Yakhe Kwinana and Dudu Myeni and for some reason John Tambi that's his signature every time. Behind the scenes there have been conversations and things have been said to get these people out, for acting lawfully, and it will be proven, and that information will be revealed soon as well. And it's not looking good. Is there



anything you would like to share with us? Do you have anything you would like to, if I could use the analogy, come clean about?

Y: (Laughter)

I: That you would like to talk about, that you would like to discuss with us.

Y: What are the conditions? I don't want a situation where you will write and say 'Yakhe confirmed this'

R: The standard practice in as far as how we function, we do not necessarily quote whoever comes to us verbatim. So in as far as you expressing that statement it's definitely not going to happen.

I: I don't, as I said, there are things happening behind the scenes, and I have a very very strong suspicion and a lot of people have a very strong suspicion that you know what's happening, and you know where the levers of power are being pulled, and those things are busy making the company make decisions that are not optimal for the company (SAA), are causing interferences, are causing things to happen, are pushing things in a certain direction for reasons that do not always make commercial sense. And I think you in all probability know what it's about.


Y: (Laughter)

I: I'd be very surprised, Yakhe (interrupted)

Y: If I don't know

I: If you don't know, I'd be very surprised. If you don't know, I'm going to pull your tests from the university where you passed, and I'm going to pull your board examination tests to go see if they are empty.

Y: (Laughter) Tell me about debit and credit. Wake me up in the middle of the night (inaudible, interrupted)



I: Don't talk to a lawyer about finances, you're going to come to the conclusion I'm actually a very stupid man if you continue that. (laughs)

R: You could dial a lifeline in as far as that goes

I: Yakhe, it depends what the nature of the conversation would be. If your request is that we possibly look at not involving you in this case, then, it would have to be information that can be confirmed. As I said we are working with the prosecuting authority so, they have the ability to also confirm this information. The information should be not about financial misconduct, the information should relate to people having corrupt discussions behind the scenes, people trying to rig bids, people trying to, that's the kind of information I think you know or you know how to confirm, or you know you know a lot more about that, I'd be surprised if you don't.

Y: You know I know a lot more about that, but...

I: Are you scared?

Y: No, of course, of course number one I am scared because I was warned, I was warned by some good friends of mine that... (interrupted)

I: Danger

Y: Yes, there's a danger, because I would be talking to this person, and there's a whole lot of power behind, yes, and in fact, one of the reasons why is because much as I know a lot, but if you say proof, it's difficult, because of how Dudu operates.

I: She has a go between?

Y: She has a go-between, and in fact, she doesn't write down anything, including BNP capital, she did not write down anything, and when she responded, I think, item no 4, I think she responded to you and wrote 4 items, or it's either (inaudible, interrupted)
ENS, ENS



I: She specifically said she is the only one not involved, she said 'Dudu Myeni is not involved,' she did not say the rest of the board are not involved.

Y: Yes, exactly, exactly. We noted that, that was item no 4.

I: Did that make you nervous?

Y: No, it also did not make me nervous, because, there are recordings at the board, their minutes and everything, and everything. But now, it shows the type of a person you are dealing with, because, when the pawpaw hits the fan...

I: She throws you under the bus

Y: Yes, she throws everybody under the bus. That is that. And then, there's been circumstances where she's thrown people under the bus, that is one of them.

I: Yakhe can I ask and you can tell me candidly, has she been using you to do some of her dirty work? It appeared, people have been saying that they have a suspicion that you have been used to do some of her dirty work.

Y: She may have been using me to do some of the dirty work without me knowing that the reason why she's canvassing that I do this is because of that. That is a possibility, like for instance, in the board meeting when we are told, like for instance like obviously how she operates she will go from lower levels up, and when it comes to the board it's already motivated. It's already motivated, everybody has...

I: Does she have these conversations behind the scenes with people?

Y: Yes

I: You can see that, you can see that from the whole paper trail, it's so obvious it's just I know that it's probably something that's difficult to prove.

Handwritten signature and initials in black ink, located at the bottom right of the page.

Y: Yes, and then, then when it comes to the board, it's almost done, and then, so.

I: So all the paperwork is in place for the board just to stamp.

Y: Yes, exactly, and then now, when you, you decide otherwise, when you are on her wrong side, because now, the outcome is not exactly what she was looking for

I: What's the effect of that if you, if you, I mean say for instance let's take the cancellation, her decision with the cancellation fee is so preposterous, it blows the mind, it's so far removed, that is a criminal act in terms of section 86:2 of the public finance management act, up to five years (slams table) just for that. When you voted against it, did she, did she approach you, did you talk about it, did she... I mean she must have been fuming with you.

Y: Um

I: Or did she just leave it?

Y: When (nervous laughter), when I voted against it, our relationship was at a stage where she cannot confront me.

R: Why did you vote against it?

Y: It's obvious that, if, there is a cancellation fee, when they bring in the proposal, the cancellation fee should be included as part of the evaluation, because we find that for instance... (interrupted)

R: Evaluation meaning adjudication in as far as (interrupted)

Y: Yes, evaluation meaning adjudication. Yes, because like for instance the other companies would say that the fees is 80 million, others would say 70. But now if you include the cancellation fee of 50, then that ends up being more expensive, so I'm saying that should have been, that should have been included.



I: But was your relationship already at a broken down level at that stage where you weren't seeing eye to eye any more?

Y: Um, the relationship was, was starting to show the cracks, so to say. Um

I: Do you, do you know anything about any of the, especially, you know in South Africa and you can see it: Prasa, Eskom, all of these places, it's about jobs, and it's about procurement.

Y: Of course, of course, even at SAA.

I: It's about jobs and procurement, and the levers of power are pulled by jobs and procurement, because if you put the right people in the right jobs, you can get the procurement of goods and services

Y: Of course, of course

I: What do you know about, I mean, let's first, should you provide us with very solid information, very solid leads, that we could consider, we will consider, taking your name off these papers. I honestly believe I will prove a case against you. Um, I almost believe it with my whole heart, can I tell you people have been declared delinquent directors for not holding annual general meetings.

Y: No, in terms of the annual general

I: No no not that, I'm just making an example. Go look at the Msimang case, Msimang in the South Gauteng High Court, courts take director's duties very very seriously, their fiduciary duties, and even the threshold is high with state owned institutions. So, I'm not, we're on different sides of the table at this stage, but I think we can move to the same side of the table, because this is going to be a long and painful experience if we're not on the same side of the table, and it doesn't have to be that if we can start talking about what's really really going on, who's really really involved, how do we know this, what can we get to prove this, who will be willing to come forward before this ship sinks, can we rather get the people who have been used as instruments in



this process, working together, to get the people who are really puppeteering behind the scenes, and I know you said you are scared, I've received death threats.

Y: No, no, I'm, the reasons, one of the reasons why I am scared is that I do not know the powers beyond, but the other reason is that, it's difficult to bring a proof, like for instance, Dude has her hit list of the people that she wants to remove and bring her own people. We've got that, and how she operates, how she operates, she goes to internet cafe, and write whatever information that she knows are correct and incorrect information, and then she will email it, to SAA whistleblow from the internet cafe.

I: Which information

Y: Like for instance, like for instance she will write, ok let me make an example, she will go to internet cafe and type whatever she knows about me, she will add the correct information together with incorrect information, and then ok if I'm an SAA employee, she will send that to whistleblow, that's how she operates, she will send that to whistleblow. And after sending it to whistleblow, it will go through the process.

I: And those people will get tied up?

Y: Yes, and those people like for instance she will say 'let's investigate, because we cannot leave this thing hanging. And then.

I: Is Nico one example?

Y: Yes. Ja. And Sylvain...

I: Sylvain

Y: Yes, and a lot of other people. And then

I: Thuli? (Mpshe)



Y: And Thuli, yes. And then now she will say

Recording: 56:59

Y: And Thuli, yes. And then now she will say when it comes to the board, she will insist that these must be investigated, of course.

I: Because there has been a trigger?

Y: Yes because there has been a trigger.

I: So it is her board responsibility.

Y: Yes that's fine, but now when we agreed that it must be investigated, the next thing that follows is the suspension. The Nico one was an isolated incident where she was investigated when she was, when he was suspended. But now when we agree that a person must be investigated because of the whistleblow, then the person will be suspended or be taken on special leave.

I: Is that the decision taken at board level to say that this person must be suspended pending the investigation?

Y: Yes

R: Is that procedural? As in you have a procedure to follow?

Y: Yes, depending on the level, because we would say the reason of course, we may not necessarily put it as suspension. We can say special leave. So that he does not interfere with the investigations. But now basically this is where I think maybe we have



been used without knowing that we are being used, because now when the person is suspended, then the person that she wants will come on board. Or maybe that person that was creating problems with her for whatever reason...

I: How does she know, how does she identify the characters who she wants to be on board, do you think she has conversations with them behind the scenes saying listen...(interrupted)

Y: I know two people that she promised...(interrupted)

I: Musa?

Y: No, not Musa

I: Phumeza?

Y: No. The people that she promised positions, in fact ended up not having the positions because what she would do, she would promise a person at that level and promise her a position at that level, and then now of course...

I: In exchange for obedience?

Y: Yes, something like that. So basically I could say of course, it is one of the reasons why there is some difference between us, because now when she recommends a person at this level, then I would not agree and say, if that person is suspended, but now a person at that level must be, or a person a level below, but then not to take a person and jump so many. So there are two people who I know were promised, Mpho Mamashela, and ...

R: Eric?

Y: No. Mpho Mamashela, and Tamiso Basil? [Not sure of spelling of names]

I: Do you have any idea which internet cafe she goes to?



Y: No she goes to different internet cafes, but she goes to the internet cafes that you would not expect her to be in, like for instance Sunnyside.

R: Somewhere in town?

I: How do you know that? Yakhe, do you know this or do you think this?

Y: I know.

I: Can I ask you to... You are a smart lady, you would have known that this thing is starting to boil, and that you need to protect yourself, and one way of protecting yourself is information. We all know that. Everybody knows that. You don't have to tell me what, have you taken any steps to protect yourself?

Y: Against what?

I: Against been thrown out under the bus.

Y: You see where I am, the most fear that I have is that each and every step that she does, that is her panic, I know that ... I know how she operates. In fact that is one of my biggest fears. You see if you have got that information, yes, like for instance, when she brought a whistleblower to me, against Musa and Nontsatsa, but because I knew how she operates, I was able to deal with it in a manner that is against her [wish], because I know how she operates, so then she does this and I know that she... You see whatever she does, I know she is going to do this, and when I resigned, I knew that she was going to send that media statement to Tladi Tladi, which was returned by [Nikki Nel] or whoever. Yes. So basically I ended up knowing exactly how she thinks and how she is going to deal with this and so on and so on.

I: Who else knows how she operates? Is there anybody close to her? Why was Phumeza pushing BnP so hard? What does she have?



Y: One of the ways in which she operates, she dangles the carrot, that's what she does. Then with me she would say, you know I am motivated for you to be on this board. Of course with me, whether I am at SAA or not, it really doesn't matter. And more especially that I know that she dangles the carrot, one of the laws of power that she practices. So Phumeza, what she will do, there are many people in active positions, and we would set up the interviews, and she would cancel at the last minute.

R: I would like to ask actually, how was Phumeza roped in in her capacity as acting CFO. I mean she has pretty much an audit background, she is a partner at SMG, and in terms of experience, how did you... did you short list? How did she come there?

Y: No, we asked the companies to give us the names of the people. But what happened that I wanted to talk about, is that many people are in active positions, of course other positions, she's supposed to not be responsible for that, but because she is all over then it is convenient for her for those people to be in active positions. So that she can say.. she once said to someone, at some stage, you know, how do we put you in a permanent position if you are not doing A,B,C,D,E, and then of course, Musa did not apply for the CEO position, and Musa does not want the position at SAA. He is not interested, but now, Dudu will act such that, Musa has an expectation, and therefore maybe he would think that, maybe I can be a CEO. But now she finds it also difficult with Musa, in the sense that Musa does not have the intentions of being the CEO. Hence now she wants to remove him with the whistleblow. Then the same with Phumeza, in fact she would say your [KPI] Phumeza is A,B,C,D,E, and then she doesn't write it down.

I: Where would she be saying these things? Just corridor talks?

Y: Yes, corridor talks, maybe in the CEO's office, maybe in the boardroom, not in the formal written. So basically also with Phumeza, but Phumeza is very very smart, and she does the work, she does her work, and she is doing a very good job, and also in terms of this thing that came out in the newspapers, the 15/16 Billion. You see if there was no ulterior motive behind, it would be a good thing. Now the profile of the 16 Billion, when it is presented, of course SAA will be paying of 4% vs the interest of 8%,



and therefore on the face of it, assuming there are no shenanigans behind, it is a good thing. Yes.

R: So just from that statement, you are saying from the 16 Billion Deal that was advertised on Sunday, there is an ulterior motive.

Y: No I am not saying that. But it could be. But I am saying that if it was clean, it is a good thing.

I: Yes I am in agreement. do you really believe that Thuli [Mpshe] was not doing her job?

Y: You know of course, in terms of the board, Thuli was not doing her job, but I have been saying to Dudu, I see why the executives are not implementing the board resolutions, because Thuli was just not implementing anything, and therefore of course, in the things that she needs to implement, there could be good things, and there could be bad things, there could be things that have got some skeletons somewhere, but now ... of course I also didn't know that she wants to place a specific person in thuli's place, you see. So that's why I am saying I may have been used without knowing. so now I am also frustrated with Thuli, in one meeting where there were executives and the board with all these resolutions for implementation, I said at some stage, you know chairperson, if we [sourced] from the head, if we are not implementing what is supposed to be implemented, or we are not... Do we take disciplinary that is necessary for people to act, because the resolutions were not happening. But now looking back, I see why executives were not implementing resolutions, if for instance Dudu has a hitlist of 8 executives, and those 8 executives know that Dudu wants them to leave, now how do you say to [Zukes Ramasia??], Zuks we need to do this and this and this, and then we expect Zuks to do that, but then we know Zuks is on our hit list

R: He is a target

Time: 1:12:18

I: And do you think that all the instructions you gave these people were lawful, because I can tell you now that I disagree with you, that all the instructions that you were giving



Dr [Dharwa], that the instructions given to Thuli, that the instructions given to Stimple, these weren't lawful instructions. There are governance procedures and laws that prohibit them from making decisions when they are not satisfied that they are lawful, and there is reason for them to believe that many of those instructions did not comply with the laws of this country, and that it was not correct for them to sign off on it, and then they questioned that, and then they sit in a suspended position. And do you know how that works? do you know what these people's families have been through? Yakhe, you have no idea how much pain has been caused in people's homes. I can tell you now, that these are not crooks. They are not dishonest people, they are not people who want to ruin your or Dudu's life. They want to do solid work within the confines of the law. That's it. I have no doubt about that. We have spoken to all of these people in extreme detail. We went through it. We said didn't you maybe, wasn't it maybe unlawful. Didn't you maybe resist an absolutely lawful instruction. Would you ask them the incorrect questions? front to back. Just maybe? For instance [Dr Dharwa?], has a doctor's degree in procurement. when he questions whether an instruction on procurement is lawful or not lawful, he does it from a position of a person who has a PhD in procurement, not from a position of a person who is trying to snag Dudu and snag Yakhe. If you could see what the hell that man has been through, you would cry. And I don't know if you don't like him because he is a foreigner, or if you don't like Sylvain because he is a foreigner. There is nothing wrong with being a foreigner. South Africa is supposedly a country that embraces foreigners. People come here in search of a better future, that's what I believe. I am not saying that you should believe that, everyone has their own personal views. Would you be willing to cooperate, because these people are still out there, going under the guillotine, and they are going to prove their cases, and be found innocent, but is there any way you would be willing to cooperate with these people's disciplinary cases, with their cases going to the CCMA, to possibly... Or do you truly believe these people were obstructive, insubordinate people not acting in the best interest of the organisation when they refused to implement board decisions? Maybe, I know you have had some time to think about this, and a lot of time has passed, but do you still come to the same conclusion that those specific board decisions that they were not willing to implement, were in fact lawful instructions.



Y: I think they were lawful. The only thing that I understand now, is the reason for the non-implementation of those instructions. from where I am sitting, I think they were lawful, but the implementation of them, or the lack thereof, I now understand why they were not implemented.

R: My question to you is, you have been serving on the board since 2009 with Dudu Myeni. What brought everything to light now? We are in 2016, she only became chair in 2012, so between September 2012, and up until the moment when you decided that you wanted out, were there not signs for you to say look, this just might not be it. Given some of the various decisions that were taken from a board level.

Y: No you know what, as I told you, when something comes to the board, it is already [cooked]?. It is already prepared.

I: But if you knew this. If you knew it was being prepared from the bottom up, then you should be asking a lot of questions.

Y: No. How did I get to know that it was being prepared? I got to know about that when, basically the beginning of this year, I got to know.

R: I am talking in terms of a specific contract, that surely there must be something that pulls the trigger...(interrupted)

I: The modus operandi

R: ... in your mind, that said look, I need to look back at everything. To say so this is how things work. Which contract specifically triggered that thought in you?

Y: Of course this BnP one was a very big eye opener.

R: Prior to that, have there been any others that you have been partially suspicious, in as far as operations are concerned?

I: FDC?



Y: FDC basically was a clean one, that's what I think. For us to be funded by FDC. The reason why I think it was a clean one is because FDC is a government entity basically, it is the Free State Development Corporation.

I: You didn't think Ace was meddling behind the scenes?

Y: No I didn't think that he was meddling behind the scenes. I really did not think so, because of course, if you are used to private sector functioning, of course, even if you could think that this one, maybe there is something beyond. But Ace, how would he feature in this whole thing. Yes, even if it can cross your mind, you would ignore it.

I: The unsolicited proposal received from Nedbank, or the document that purports to be an unsolicited proposal by Nedbank last year, that was annexed to the section 54 application. Where did that proposal come from? Did it really come from Nedbank? Do you even know of that proposal?

Y: I know of that proposal. That proposal - I don't know who signed it, I can't remember.

I: Masotsha Mngadi???

Y: But that proposal was done by [Masho?]. Of course did it come from Nedbank? I don't know, but it was on Nedbank letterheads.

I: When did you receive that? Was that received by email? Did Dudu bring that to the board? Because it was directed - it said the board of directors - so it was directed to the board directly, which is strange. For an unsolicited proposal to be directed directly to a board, it is not how government works and we found that very very strange. Do you know anything about that? Who brought that to the board, because obviously you would have had to sit as a board and say ok, we have received this proposal, we believe this to be technically correct, we are satisfied that the information in the proposal should be incorporated into our amended section 54 of the application, and the amended section 54 of the application should be forwarded to the minister. Now

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that Nedbank proposal - it had to reach the board somehow. Was it by email? By hand? How did it land up before the board?

Y: I think it came from Thuli, because I don't remember seeing it in the board pack through the company secretary.

I: So Ruth would have put in in the board pack if it was part of the board pack. So it would have been minuted at that meeting that she had introduced it at that meeting.

Y: Now you know the other way that we do operate is that, they will not be having meetings sometimes

I: Board meetings?

Y: There would not be like these special meetings, or formal meetings, hence you find out sometimes, she will say something, and then she says the board approved, and then I would say, Ruth can I get the minutes, because I don't remember us having this, and then Ruth would say no there are no minutes because there was no board meeting that was convened.

I: Was this one of those? Because that amendment could not find its way up to the minister without board approval. There is absolutely no way. I mean it is an amendment, it is a serious amendment, with enormous implications. We have a actuary assisting us at this stage to quantify the damage to SAA because of those delays, and it is something, it feels to me, that you as a board member would have had to sit with this and say listen, this is very very technical, I am only a chartered accountant. Do you... you do not have the technical expertise to evaluate this. John, do you have the technical expertise to evaluate this? We need to get somebody with technical financial skills to tell us what this thing is. Do you understand? that would be the proper government process, to say I cannot make a decision on this.

Y: I don't think ... you mean the A330 and A320 swap?



I: Yes, the section 54 proposal sent to the minister with the unsolicited proposal of Nedbank. There is technical stuff in there, and the arguments [Masotsha] are making are very very technical, so one cannot simply accept those arguments as been true, as the implications for the business, should Masotsha be wrong, could be devastating. And a good governance process to my mind would be to say, look this is one person saying it. I need to have somebody look at the technicality...

Y: Of course that document, we engaged on it. But what I am saying, that the many times that we find out that sometimes, it is not like a board meeting where there would be a board pack, there would be so many days, 7 days, and so on. But that document, I understand what it meant, and I was also in support of it, and basically it was not difficult for all of us to sit together and understand what it means and also what the implications are.

I: So you are saying that you understood exactly.

Y: Yes

I: So was there a board approval that said send this section 54 application to the minister, their revisionment.

Y: In fact, that revised section 54, we were all involved. I remember that. I think it was Musa's [serving??] day, acting, but he and the legal and finance team, were required - in fact we had a deadline to submit that section 54, so they worked flat out for that section 54.

I: See my concern is with the timeline. So we have Dudu writing to Airbus saying that the deal will be done differently. Then after that, she receives this magically unsolicited proposal. So she has decided to do the deal differently already. The decision has already been made. And now you are deciding after this, to find a reason to continue with this.

R: To find a supporting motion, from somebody who is not thoroughly familiar to a point, with the operations. An independent person, being Masotsha in this



instance. So at first you have Dudu saying that the deal is going to be done differently. And thereafter, there is a supporting motion based on this decision that she took here.

Y: (agrees)

R: There is somewhat some form of a correlation in as far as you describe, in that she works from the bottom up in how she operates, so there is a clear demonstration in the bottom up approach.

I: First making the decision, and then finding the reasons.

R: Then finding somebody to support it.

Y: But you know also that thing of saying that this will be done differently. We had been having numerous meetings in respect of Airbus, and in fact ...

I: Just the board?

Y: Yes. Us and people from Airbus. Yes.

I: With the executive there as well?

1:30:07

RETHABILE

2:00:00



Y: There is only one thing that I am going to follow up when I leave SAA, is the issues of the [growing concern of the guarantee] [?]. Until today, this morning, Dudu had not signed the letter. She said it seems as if this letter is intended to discredit her. It seems that now it looks like Yakhe is a member of democratic.

R: Wow ok, that's quite serious.

I: Sounds like another conspiracy

R: I am just thinking in terms of the implication in as far as the timing is concerned. The 31st is tomorrow.

Y: I am not worried about that. In my letter of resignation that I sent to National Treasury, I brought it to his attention, all these things, so even if the Chairperson did not like the letter because of her issues with the minister, the minister knows.

R: I think we could sit here for the whole day basically going through this. Is there a possibility that you can engage with us going forward?

Y: Sure

I: We are going to need a lot of your time.

Y: You can take my number, I don't have a business card. My number at the office - you can arrange with Lana at the office. 012 807 0801. Cell 079 950 0610. If I am not available, leave an sms.

I: Yakhe where we are now, we are going to see our advocates after this, and I am going to ask them for more time. So we can keep talking, so we can keep engaging. We have a lot to talk about. We have a whole timeline.

Y: But I am worried about SAA under Dudu's watch.

I & R: We all are.

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I: I am very worried about the people out there, I'm worried about Thuli, about [Masimba?], I'm worried about Cynthia, I'm worried about all these people. I know they will be cleared of their charges. But as you said and as we know these charges, they pop up from different places, and people are left in the dark as a result of them, and I personally....

R: Martin is also on that target list.

Y: Let me give you that whole list. Can you give me a page - let me give you the hit list:

Martin Kemp - Acting CEO of [AshX]

Zooks Ramasia

Moosa - Acting CEO of SAA

Phumeza Nhantsi - Acting CFO SAA

Y: You know what Phumeza does, in terms of procurement. She submits all these things to the board, knowing very well that she is going say can [??] can you [cut?] for this and this and this, so that I protect her, and oppose if necessary. So that is what she does.

R: Zooks, what is his capacity?

Y: GM operations. And then in respect of Thuli. There is no one to testify against her.

I: Who would have testified against her? You? Because it seems that they get you to testify.

Y: No. I only testified in [Sylvians]. Of course they got me to testify, which I opted at, and then...

I: They requested you to testify against Thuli.

Y: Yes, and then ...



I: Who is them...

Y: I don't know who the lawyers are.

I: Kolisi?

Y: Yes, and then the person on now is Musa, and Moosa is not going to testify.

I: Has he refused to testify

Y: Yes.

R: So you say that you were requested to testify by?

I: Kolisi the lawyers.

Y: We are still on the list:

[Lusanda gia] - GM Communications ????

Tlali Tlali -

[Ashraf???] - GM Legal

Time: 02:07:00

Phinda Ncala [???] GM IT

I: Can I just ask where does this list. when you say this list..

Y: I am thinking in terms of the layers

Nontsasa Memela Procurement at SAA

and then...Lester Peter - Acting Procurement

I: When you say the hit list, how do you substantiate this?

Y: You can see. Of course... call the name and I will tell you if she told me:

Martin Kemp - Yes

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Musa (Zwane) - yes

Phumeza - No - the reason why we are saying that is because she has been complaining a lot about her non-performance. And then Phumeza has been saying, write it down, let's have a performance agreement. So I know she is now on the hitlist.

I: Are you still in contact with Phumeza?

Y: I am in contact with all of them. I just left when ... and then who else?

Zuks - yes everybody knows. In fact I tried to make peace between the two of them.

Lusanda - Yes she told me.

I: When you say she told you, what does she tell you?

Y: She saying Lusanda is responsible for stakeholder management and communication, so she is saying that we are being lambasted by the media, and Lusanda is not doing anything. It seems as if she is taking instructions from National Treasury, and therefore she has been wanting to outsource the communications function of SAA.

I: She is actually trying to set up a deal.

R: She is trying to set up a procurement deal. And Tladi?

Y: He reports to [??]. But now specifically Tladi, he is an ABZ - Anybody but Zuma

I: Is that a real term?

Y: No it is a slang term.

R: Ursula?

Y: In addition to Lusanda, Ursula and Lusanda and Phinda were brought in by Kalawe

R: Nontsatsa.



Y: Nontsatsa There is this deal that has gone horribly wrong according to her, that is the components tender at SAA technical. She got Nontsatsa, that's the AR1, she got Nontsatsa to make sure that that tender was awarded either to Air France or HA Walters. Now that tender came and came and came and came, until it got to the board where Air France was recommended. But Air France was number 3.

Time: 02:12:50

R: In the adjudication.

Y: Yes.

R: They stopped that scoring in the adjudication.

Y: Yes. And the AJ Walters did not make it to number three or number four, so seemingly things had gone, and now at the board, we approved against the recommendation of Air France. Seemingly she had a deal with Air France and AJ Walters, but now things did not go her way. And then now she is bringing Nontsatsa followed making sure that this thing happened.

R: Ok, you mentioned something about AR, and you said that there was a recommendation. I am just trying to play a big picture here. We have Air France bidding, we have AJ Walters bidding, we have AR bidding.

Y: Yes and then we have Lufthansa.

R: Ok we have Lufthansa. In your opinion since you were a part of the adjudication...
(interrupted)

Y: No I was not a part of the adjudication.

R: Ok, specifically why were you not?

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I: No it reaches board level...(interrupted)

R: Ok so by the time it gets to your level it is pretty much... Why was AR then recommended?

Y: AR was number 1 in specifics... There were two requirements, three including BEE. So the first requirement is the technical. AR was number 1 in technical aspects...

I: Is that what the BAC said.

Y: Yes, in fact we audited that because [Nontshaha?] wanted that, and then we looked at everything, so the BAC, the technical aspects, AR was number 1.

R: Sorry when you say technical, I was about to ask.

Y: There is technical, and then there is [???] and then there is BEE.

R: Ok, BEE scoring. Ok Technical, are we talking in terms of...

Y: Knowing the actual performance of the job.

R: And in as far as performance on the job, who from SAA evaluated this and go to the conclusion that they were better than Air France and AG Walters?

Y: There is the... in fact there are about how many teams, there is a specification team...

R: Who sits on the team?

Y: It depends on different people.

I: Depending on the bid and scoping

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R: So they are basically knowledgeable of the products that are required. Engineers perhaps?

Y: I don't know what their expertise is. But it is the people who will use the [??] at the end of the day.

R: It would be interesting to know how that conclusion was reached at the end of the day. Something to substantiate...

Y: No, they have it documented. And each person had his or her own scoring. So I don't know who the team members are. So there is the bid specification committee, and then there is bid evaluation committees, and bid adjudication. And then from bid adjudication, then it goes to the board.

R: Ok so those are the various steps that need to be fulfilled.

I: People who sit on these committees, like Ms Mamela.

Y: I know that Nontsatsa is chairing the bid evaluation. I know that she is chairing the bid adjudication. I do not know the other people that chaired the other committees. Yes.

I: Is she friends with Dudu?

Y: I wouldn't say they are friends. They are colleagues basically. But Dudu had several meetings with Nontsatsa in respect of this, and hearing...

I: Separate meetings with her?

Y: There was one separate meeting that I know of. And Dudu's child.

R: Sorry Dudu's child??

Y: [Thalente?]

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R: Is he a part of SAA?

Y: No

R: So how does he become a part of this meeting?

Y: No this was private.

R: Ok.

Y: So now the adjudication recommended Air France to the board. And then Lufthansa... You see after the technicality is decided, it is put aside. It is not longer a factor. Now you look at the price, and then after the price, you look at BEE.

R: So in terms of ranking, technical comes first, and then price and then BEE.

I: It's a disqualifier.

R: I just wanted to understand the process.

Y: So now it seems as if therefore, the reason why she go to the hitlist is that she did not convince board enough to give these to Air France or AG Walters.

I: Nick Linell

Y: (Laughs)

I: How did they appoint Nick? I mean did you ask for this, we need a Nick in our lives?

Y: Nick came at the time of Monwabisi Kalawe, and then of course he was recommended by Dudu to give advice to the board.

I: No procurement?

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Y: No procurement.

I: No quotes?

Y: There are many things where there is no quote and no procurement.

R: So is that his role, basically giving advice to the board?

Y: Yes.

R: What kind of advice does he give? I mean I'm sure you have sat in ...

Y: What he did with me, was the Ernst and Young report. Ernst and Young was reporting to him.

I: 10th of December

Y: Yes. And thereafter reporting to me. So basically that is what he did. But there is an issue at the moment, which I threw out of the board meeting that I attended on Tuesday. The issue with Nick Linell is that he was given a budget. Now he finished that budget, and now there was an extra that was paid now. Now that extra is irregular expenditure. Now in addition to that, he continued to work when he knew that there was an over expenditure. And now Phumeza doesn't want to pay, and that is the also the reason why she is on the target list (laughs). So Phumeza, what she said, she needs the board to condone the irregular expenditure, and then she also needs the board to approve a further budget, if we are going to use him again. Now I am saying that Nick is supposed to be the advisor of the board, but who is he advising?

I: Because you don't meet with him?

R: I was about to say, why were you by passed in as far as you being chair of audit and risk, regarding the E&Y report? Why does the first have to go through him, because he goes on a consultancy basis to the board. Shouldn't, I think that

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procedurally, feel free to correct me, but shouldn't it be that the report runs through you, as the audit and risk chair, and then he get oversight?

Y: No basically he only worked in respect of EY. He worked basically sort of as an executive. He would be there to unlock whatever was locked, or is not working. So basically he was there almost on a full time basis. I did not have a problem with that. But the problem that I had was that that exercise was finished. I don't know what it is that he is still doing, because there was a specific budget for that that was finished. Now, but what I know....

I: But that was December last year already. Or was he busy with the report afterwards looking at it?

Y: No the report was done by Ernst and Young.

I: Yes I know but the report was delivered to Nick on 10th of December last year.

Y: Yes

I: Then what did the board do with the report?

Y: You know also that that report was intended to get just about everyone.

I: How do you know that. Did she tell you that it was part of the plan?

Y: No. I didn't know it was part of the plan when it was started. I got to know that there was an ulterior motive when I go along and EY report is made reference in respect to this person and this and this...

R: Individuals, naming and shaming sort of?

Y: (agrees)

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I: That report, was it served before the board? What has the board done about it? There were a lot of recommendations in that report.

Y: You know, in that report, it did not serve in front of the normal board, but all the board members know about that report, but it did not serve in front of the normal board.

R: Ok so there was a meeting convened with that report on the agenda, to say part of our agenda, part of our items will be....

Y: Acceptance of the report. But of course EY gave us a presentation, sort of sign off to say here is the report.

I: Didn't that concern you?

Y: You know that report at the moment. You know from where I am sitting, that report did not concern me because I see that it was not done for the intended purpose. There was an ulterior motive.

I: But it backfired.

Y: (Agrees)

I: But I mean there are things in that report, and allegations in that report and recommendations in that report. Why didn't it ever serve before the board? I mean did she have the whole report? Do you have the whole report? And Ruth have the whole report? and John have the whole report?

Y: (Agrees to all names)

I: Are those the only people who have the entire report?

Y: I don't know who else has the report.

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I: That is my understanding, that those are the only people who have the whole report. And Nick. But as chair of audit and risk, surely you should have demanded that listen, this report needs to be served before the board. We need to discuss what has been said in this report, because there are some serious allegations in this report.

Y: No before that report, we sit in front of the board. It was supposed to go to Exco, because the implementation there must be done by Exco. And in fact, there were things that Exco were not in agreement with that report.

I: And how did you deal with those concerns?

Y: No we haven't dealt with those concerns.

I: When Dudu goes on TV saying we are busy taking care of the recommendations that were in the EY report, but it is going to take some time, is she lying?

Y: You know Dudu, how Dudu operates, Dudu takes herself as the board...

I: So she is ... I've seen that, many people have said that yes.

Y: Yes, so if she is saying that she is doing something about the report, or that the board is doing something about the report, definitely Dr Tam[?] doesn't know..

R: Basically it means Dudu Myeni is doing something. Board means basically one person.

Y: (agrees)

I: So that report came in and then just died a silent death almost.

Y: The report, how it was supposed to flow. It was supposed to be accepted. Ok, basically when we do an audit, let's say a forensic audit, of course you discuss that report with the most senior person, like for instance in the case of IT findings, Phinda [??] would be the last person to discuss those findings with. Then when it goes to the



report, any items of disagreement have been cleared, because it may happen that they say, we were not given access to invoice number 50, then Phinda [???] picks up the invoice number 50, and then that gets cleared. So whatever is taken to the board, it is the case that has not been cleared. That is how it was supposed to be. Hence now the executives wanted to disown that report when it got to them, and therefore, before the executives accept the report and say I agree that this is what is happening in my department, because remember that Ernst and Young is auditing [Man?], So [man?] must be given an opportunity, technical must be given an opportunity, Air Chefs, Cargo, operations....

R: To respond as far as the findings are concerned.

02:31:19

I: And all those people, they have been given an opportunity.

Y: Exactly that is what they are saying that they were not given an opportunity. There are things that they do not know.

R: What do you think the motive of the report was. In retrospect. Would you look at it and say it was meant to make certain people look as if they are not doing their jobs, and they are not good.

Y: Of course

I: You said just now, that Dudu goes to strange places in Sunnyside and all of this stuff. Yakhe, how do you know this?

Y: (Laughs). I know because she told me, and at some stage I once accompanied her.

I: For which one was that.



Y: I can't tell you that. Not yet. (Laughs)

I: Let's close it for today, I'm going to put things on ice. You have been cooperating well, so let's keep talking.

Y: Let's keep talking.

I: I still have a lot... I am going to start working with this, because there is a team of about 6 people working on this. Investigators and everything. So I am going to get input from them so we can start getting through this.

R: And as far as her request earlier with regards to applications of legal costs, that is something I don't know, from a board perspective you are better equipped than I am.

I: I have to go to my board and discuss this.

Y: Tell them that I am going to cooperate, and also tell them that it is in my interest to save the airline. And also, one of the reasons why I resigned, is that I wanted to force the minister and the president to talk, because now they are not talking. The other person is there, and the other person is there, and the guarantee is required, and this is what we hear, we hear that the minister has got his own list, and Dudu has got her own list, and the minister's list does not have Dudu.

R: In terms of the new board

Y: In terms of the new board yes, and the president is keeping this list, because it doesn't have Dudu, and then now the guarantee is not being given, and the airline is going to go down. So basically I was emphasising the importance of the two bulls to talk.

I: I can tell you that I am putting things on ice whilst we are talking and whilst we are cooperating, and I will report to my own board. I have to report to Ms Gumede, to Wayne and to Tiaan. So I am going to discuss with them in a private meeting. I am not using any of this information.



Y: But now there is also the information that I had, is that the board members, it seems as if the minister and the president have come to sort of a compromise that the new board members will be announced soon. But now it seems as if soon will be tomorrow. So it seems the new board members will be announced tomorrow, and therefore maybe the guarantee will therefore be issues. But what we heard is that the compromise is that Dudu will still continue to be the chairperson. Which basically is a concern, and I know definitely how she operates is that, she will concentrate on the board as usual, and she is going to fight with whoever the new board member is. Maybe the board members will not know the ulterior motives, because I also I got to know how she operates, by working closely with her by observation.

I: We will be in contact with you, and I will not make any more statements in the media about you. I can tell you I have been contacted by the investigators from syco? I am going to tell them that our investigation is still ongoing, but I will not provide them with my report yet. So we keep talking.

Y: Thank you very much. So basically I am concerned that the president is going to continue to put Dudu there, I am very much concerned, and in fact you know SAA hasn't sat for a strategy session for this current year, that is in operation. And that strategy was already supposed to have been approved by 1st of April, so that 1st of April people know what their KPI's are.

R: After year end basically

Y: Yes, but there was a disaster in January, 14th or 16th of January, where the executives were supposed to present the strategy, and then the strategy... and then myself and Dr [...] were driving from Midrand towards the airport for the 8:30 meeting, strategy session. At 8:15 I received a phone call from Dudu to say the meeting is off. No, that one is much better, she is change the meeting to Midrand, Protea Hotel. Now we must go back closer to home. And then now all the people, about 30 executives of SAA, having to drive from Protea Hotel Airport, to Midrand, that is another hour.



R: In terms of traffic going into Sandton.

Y: Yes, and then now she calls and say, this is not going to be a strategy session, it is going to be a special board meeting. Oh ok, but not everybody there is a board member. So it will be a special board meeting with executives invited. Oh ok that's fine, then we go. Then at 10:30 she says, oh can you chair the meeting. No, I am not going to be able to chair the meeting because I do not have an agenda. I don't have a pack. (Dudu) I will give you an agenda. (Y) No we will wait for you. We waited. She arrived at 15:00. And then she stayed for about 5 minutes, and said she was called by the minister of finance. She was just here to apologise. And there were also going to be people from SSA. And then SSA did their presentation and left at 16:00. And now Ruth is saying that Dudu is saying the board members must wait for her. And then I said no, I don't live far from here. You will call me when she has arrived, but I am going home now. And then she called around about 18:30 - Ruth - the company secretary and said that the chairperson is no longer coming, she is at the airport. And the other board members were waiting.

R: If you can, draw us a timeline of events that stand out for you.

02:41:26

Y: You see that one, that one is a problem. People were smoking there, and they were sitting. You see we are all brushed as if we are an irresponsible board.

R: So I mean, my request right now is that, if possible, the events have happened in as far as your serving with Dudu on the board. If you can, perhaps you can draw us a timeline of particular contracts that were decided in that point in time, from top of your memory, if you have documentation to substantiate that, that would be great. In our next meeting, if you could present us with that. I mean we are quite flexible, we are willing to work around your schedule in as far as that goes. This means that we have to pick it up from you somewhere.

Y: You know as I said, she is not writing.



R: Well your recollection. We just need your recollection. And if there is any substantiating documentation in as far as your recollection goes, that would help as well.

Y: You know there are contracts that we know that she is involved in... she is involved in this one and this one... but when we do like your little investigation as to who's this company, her name is not there. So basically you cannot prove that she is involved here.

R: We can. Seriously we can.

I: We can look at it. We are working on it. We just need the information on what is it that you think is happening. And where procurement is not going through procedures, of all things over this whole time. Start thinking on that. Because that's what I have to present, and I have enough to present almost already, I am just thinking that you might be able to fill in some gaps.

R: But then also with your presentation coming forward and saying you need to cooperate with us, I think that would go a long way in as far as basically detailing the representations in respect of what has happened.

I: Placing everything into context.

Y: But you know this one that I am talking about in terms of the strategy, you know the strat session has not been presented, even today.

R: Do we have a meeting request? If there is a meeting request to suggest that? A meeting request basically is sent out to the executives, and there is a meeting request the secretary would obviously be responsible for the register of who was meant to attend, who had agreed to attend, that kind of thing.

Y: No what I have, I have got a two day meeting request, which is happening in the future. Of course that is not for me now, but that is the strat session that was supposed to determine the activities from 1 April this year going forward.

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R: Basically the 2017 financial year.

Y: Yes.

R: So I mean if we have a meeting request of the 1st, basically tying everybody that was there, or meant to be there on the 1st, I think we have enough to basically substantiate that.

Y: No not that meeting, that meeting was going to be held in January, rightly so, according to the annual plan. Yes so that people can go and do the amendments, for it to start operating from 1 April. To date we are in August, May June July August, 4 months into the year. Executives do not know where they are going.

R: Does it include budgets?

Y: Yes.

R: I think then from the angle of there not being planning, budgets and the like, that would help the fact that initiative or steps to indicate the way forward, also feeding into the LTTS, because given that the strategic program that needs to be drawn up for the operations going forward, I think what would feed into the objectives of the LTTS, and in the absence of any documentation in relation thereto, it means that there is a deviation from what the LTTS requires in the current year. So in as far as the delinquency charges, I think it does hold some substance.

Y: You see that one of the strat session, and the people sitting there the whole day, senior people, and then I am saying, the AG average charge out rate of a senior person, they say R2500 per hour.

R: They spent what 8 hours or more? Per person?

Y: Per person. Times about 35 people.

Handwritten signature and initials in black ink, located at the bottom right of the page.

I: About 100 k an hour. Yakhe, let's pick it up later. Thank you for your cooperation. I am not going to say anything more about you.

Y: Thank you very much. But what I will do, I will try and recall whatever I can. I am not disgruntled that I left SAA. In fact I am very very happy. In fact I am telling people that I am walking on eggs. You know when someone is walking on eggs, anything is possible at any time. and we do not know what is happening. Now you do not know if what you have signed, in fact you start to think that whatever you have signed has got something.

I: Super. Let's keep this conversation confidential.

Y: Yes, in fact I was also advised to come to your organisation because I have been telling them all about all of these troubles, and then we know that ANC hands are tied, so basically we can't do anything..... [Audio faint]

End of Interview.



TRANSCRIPTION 02/09/2016 – EXPLORATORY MEETING WITH YK

Note: Initial introductions and small talk.

IH: Did you see the new board? Interesting. Some familiar characters there.

YK: Who else do you know?

IH: I know Peter very well

YK: Oh yes a legal professional.

IH: Can I get you something? YK: No I'm fine.

YK: So what do you think of the new board?

IH: I have some concerns, but if we have enough time, we will try discuss that.

(Everyone settling into the meeting)

IH: How have things been Yahke, since you have been gone?

YK: You know they say the more things change, the more they stay the same. I thought I would not be busy, but I am running around.

IH: Interesting times. Everybody's cell phones on silent.?

IH: We have a bit of an agenda, so Marais and Lerissa are just taking notes etc..., Rethabile and myself and Rudie will be the only one's asking questions, so... we have a bit of an agenda, if I can put it that way, we are together so we can just actually start one topic at a time, just start talking. Rethabile asked me just to once again firm up her position at this stage, where we said that you know should these discussions gather any fruits, that we will keep considering whether her name will be included in the court application. That was where we left it the previous time. So we said things are on ice for now and pending where these discussions go. After our previous meeting the rest of us met, so we have a lot of questions, so let's get cracking.

YK: You said you have made an agenda. Can I have the formal Agenda.

Tian: It's not a formal agenda it's just topics for us to discuss. So I will read it out. Events to be discussed basically.



RM: You need to go to the bathroom or anything,, just say I'll show you where it is. Oh, sorry, sorry.

YK: So the first one is the events to be discussed.

IH: Events being things we are going to discuss are people we are going to be discussing a whole lot of things. I am going to leave you to do most of the talking, just ask a question and you can tell us what you think, what you know etc..., if you don't know any more than that, we move onto the next thing, and that's it, myself, Rudie and Rethabile will ask you questions in between and we will see where it goes, but relax, these computers (laugh) people don't use the old, we still use paper to make notes. You are older than us, we are the tech generation.....

YK: You know that is an insult for woman nel.

IH: I said you are older

RM: Wiser...

MD: We respect that.

IH: So all right let's get cracking. Let me this time mention some interesting stuff for us, most interesting to my mind at that stage was, that you talked about the abuse of the whistle blower, you see I want you to just talk more freely about that, when, who, what, how, why, I mean it would be great if you could get into the specifics of these exact events. You can talk about the things you can prove and the things you cannot prove as well. So, ja, the floor is yours.

YK: Why don't you give me all of the clues that we are going to discuss, because some of them [audio...]

IH: Ok, we are going to discuss the whistle blower line, how it was used, request for people to lie at disciplinary hearings, appointment of the disciplinary chairperson, [Masotsha Mgadi], as a theme, there are a few questions we will discuss, Thabo Kwinana, [Mamwabisi Kalow], [Masimba Dowa], [Thuli Mtshe]. The list is quite long so we will go through them one-by-one like that.

YK: Sorry what was number 2 a request for?

RM: Disciplinary process in as far as [chairing] witnesses and after that ... before the expo...

YK: [audio unclear] ...after the other one.

IH: Um... Mgadi,

YK: No, no. I've got that one.

IH: Thabo Kwinana.

YK: Yes I've got that. How would I miss that that one.

RM: It was a request for witnesses to ..., that's the one, so I can't just incorporate it with the Tchiwa.. [audio unclear].

IH: OK, [Thuli Mtshe], ... that one [Mamwibisi Kulawi]; [Masimba Dowa] then onto the next one [Msiswani; Nico Bezuidenhout]. Okay, Appointment of Ernst & Young. Appointment of [Nichola Nel]. The jet fuel conception; AAR, appointment of ENS; AAR flights to the United States. SwissPort and [Janicromb]; appointment of [Phumeza Nanzi]; Blue Valley Estate; [Peter Setsebe]; [Thabeng Temiyeni]; Gauteng Films Commission; [BM Khulisi] (BMK); [... Ngwane]; [Lynette Ntuli]; [Pieter van der Merwe. What's Eric's surname? Eric Mbhedzi; Sergey Pokusaev; Jacobs Ma foundation Donations; EMIRATES Steel; and then Daniel Mahlangu; and then Des van Rooyen.

Commented [EK1]: Please check all names

RM: Is that it.

IH: That's about it I will add as we go along if I see something else. I might jump in between 1 or the 2 of them. All right Yahke you mentioned that the whistle blower line was abused on various occasions by Dudu. You said that you considered today providing us with some additional information on it.

YK: No, I did not say I would produce additional information. You said, um, maybe that is the actual information that you are talking about where she would go to the Café Shop and the Internet Café. Yes, and then any place that you really would not expect to see her, and I mentioned for instance, outside..... So basically I do not have any further information to say this is the News Café that I went to. I don't know if we have been to Sunnyside. So basically there is Esselen Street that has got [unclear audio] just about everything and anything.

RH: If I may jump in here, sorry, I just got a briefing from Ivan and Rethabile, unfortunately I missed the conversation on Tuesday, just to give you some background before we carry on if I may Ivan, I have worked for the past 3 months on this SAA investigation. We have got a lot of information, and some of the information that I am going to cross check with you, and some of the information that we want from you. Most of the questions that I am asking will be straight forward questions with a "yes" or a "no" or a date, or a place, or a name, stuff like that. To come back to the whistle blowers that you mentioned earlier and use of the whistle blower line, when did this happen, when Ms Myeni went to the... was it over a period of time, can you give us that period of time?

YK: Maybe about a year ago.

RH: A year ago, say mid last year. How many times do you know of that she visited these internet café's.

YK: There is one time that she went with me.

RH: She went with you or you with her. The one time that you went along, can you remember where it was, which one it was.

YK: That was Sunnyside.

RH: There in Sunnyside, I hear DTI Campus, Esselen Street, around about there and that occasion obviously you were there, you were present. Can you recall on which person this report was done and sent through?

YK: You know I don't remember exactly which one, but what I can say in respect of this abuse of whistle blow, is that when I was asking her why do you do those things, because you have got authority and power to call a task team and say this is what is happening. But you know the way Dudu operates, she doesn't want her hands dirty. So she doesn't want this to be coming from her. So basically that is the abuse of [undear]...

RH: Just, I must emphasize this, the day when you were in her presence, did you sit next to her when she did this, what was the situation, because I mean you said to us that you were present, I just want to find out what was the situation?



YK: Okay, how she does it and in fact also the whistle blower you think that what she says is true for instance she will have all the information that she has in her book. Have you got [unclear...] the information from lower level people and so on and so on. She will have all this information. So basically it will be the information from one sort of whistle blower, or she will be collecting information from everybody else and then she will have it in her book, yes, and then she will go to Internet Café and type it from her book. So basically she may have collected it from various people, but obviously I don't know those people. So basically she will have all this information about whoever and in fact she collects information about everybody and anybody, maybe she uses it at the time she wants to use it.

RH: But that specific date, did you enter the Internet Café with her? Did you see anything that she was typing about somebody, who was the person that the whistle was blown on? I mean was it Nico Bezuidenhout; was it, who was the person on that specific day?

YK: You see the way she has got a lot of whistle blowers in her book, is difficult for me to say, this was the whistle blower.

RH: Didn't you look what she was typing and discussed it with her?

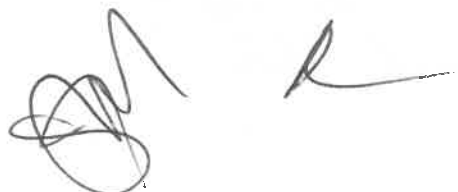
YK: No, remember that before we went there, she told me that, she tells me about these whistle blowers, about everybody, to say you know there is this whistle blower about Nico and she will write it down or she will have written down and she will be reporting to me that there this whistle blower, and this whistle blower about ...

RH: Dr Daba or someone.....

YK: Yes, so there is this whistle blower, this is what the whistle blower said and then there is this whistle blower, this is what this whistle blower said and so on and so on. In fact, almost all the whistle blowers, except of course there will be some whistle blowers about a person who is selling his or her benefits somewhere and so on, but Dudu is interested in the whistle blowers of senior people.

RH: So you cannot tell us, although you were there, you cannot tell us,

RM: In her book maybe? Didn't you mean like people, other people?



YK: When she reports to me her book will be here, but now I am saying I can't remember that particular one as to who's one was it, because that's [audio unclear]....

RH: You were there that day.

YK: Yes. I was there.

RH: Let me sketch this to you, she will inform you, Yahke you know what I went to Sunnyside yesterday and I put in a whistle blower report against Nico Bezuidenhout, for example, or is that not the way that she communicated with you? Or will she just tell you, because you said to me just now that she reported to you that she had done this but will she only say that I have reported someone via the whistle blower line.

YK: No, she will not say she reported someone by the whistle blower line. She is going to say there is a report submitted, it will appear as if somebody whistle blew to her and she facilitated the whistle blower that to the whistle blower line.

RH: That I understand but I mean was it that she gathered the information, she put it together, and she anonymously via the whistle blowing line reported someone at the internal whistle blowers forum. Is that how it worked? But she never reported to you to say, Yahke you know what, today I made this report on Nico for example.

YK: No, she will not say it is coming from her.

RH: I know that, but I mean you discussed it, that is what you said. You discussed it but did she say on who she is blowing the whistle.

YK: Of course I would be knowing, because each page has got the name of the person and whatever she [audio unclear...]

RH: That is exactly what I want to know. Who was that person that she blew the whistle on?

YK: You mean the people in her book?

RH: That she reported through the whistle blower line. It is quite simple, what I want to establish here is that there was a lot of investigations done, there were a lot of people suspended because of the whistle blowing report. I want to know which one she instigated? Upon whom?



YK: I would say basically all the whistle blower executives are coming from her and she said the reason why they are coming to her is because people are calling her. So they don't have....

RH: Did you believe her?

YK: If she had such information, of course, she may be getting it from somewhere.

RH: But she compiled the report.

YK: Yes.

RH: If I understand you correctly, it was on the senior people that the whistle was blown, those are the reports that she created at that Internet Café, is that correct?

YK: Sorry what did you say?

RH: The senior people that were suspended because of the whistle blowers report, like [Dawa], like [Bezuidenhout], can you mention the names, was that the reports that she created?

YK: You see, that is the reports that she created, but I want to qualify to say, she has been saying she has got the whistle blower from other people, so which means that the person would have come to talk to her and then she wrote it down to say this is the whistle blower, which basically is something I believe her, because there is no way that she will have that information without someone telling her.

IH: Except if she requested it.

YK: She requested to be told that's [fine??]...

RH: So what you are saying is that she didn't instigate the allegations against somebody. Somebody told her, why did that somebody not go via the whistle blower line themselves? I mean it is anonymous they could done it themselves, why did she take it on herself, why did she tell you, why did she take you along?

YK: She said to me, people have no confidence in the internal whistle blower. Hence some of the whistle blower she gets it directly from the Department of Public Enterprises when SAA was still reporting to Public Enterprises and then she got it from Department of Finance. So



basically she is saying instead of people using this whistle blower, they report directly to her because they want action.

RH: They trusted her.

YK: Yes.

RH: You just said, nobody trusted the internal whistle blowing program. I am jumping a bit, but why then was there a resolution that investigations of whistle blowing reports will be done internally, then on one occasion there was a whistle blowing report that was stated on [KULAWA] where the board decided, or where she said that listen, we must get an external investigating team to handle this, because this is senior personnel, and you supported that notion in the board and eventually an external investigating team was appointed. Why go against the resolution that was taken about 3 months before that?

YK: No in fact, I also did not agree with that resolution. The reason why I was saying senior people upwards should be investigated externally.

RH: But why was it not said at the time when the resolution was passed?

YK: No no, remember that in a board, if the majority agrees with that, there is goes through. So I was in the minority in that audit committee that you are talking about, which basically is something that I did not agree with. That's fine if I don't agree with, it is well and good, I am not the only board person, but let me tell you the reason why I did not agree and in fact where I am, I am still adamant that it is not right. You see the chief audit executive is below the exco level, and the internal investigations are handled by him. So now can you imagine him investigating even the GM's without ... No, no, no, remember that you have got a right to your own opinion. I am telling you my own opinion and what I believe in. I am saying, and this is what I also said in the meeting, it is not proper for [Siyakula] to investigate his boss. It is not right. Because what if his boss wins that case, how is he going to act against [Siyakula], so that was my opinion there, so whether they agreed or not and whether you agree or not, it is my opinion, and it is also your opinion.

RH: Yes I understand that, it's true, everybody has an opinion. It is like a junior policeman investigating Jackle Selebi.

YK: Exactly.



RH: So then after this investigation disciplinary hearing who appoints the chairperson of a disciplinary hearing, what is the process there?

YK: I don't know. That is handled at HR.

RH: Who is deciding who will be the witnesses at such a hearing?

YK: I think all of that process is decided at HR.

RH: Who is handling, you say HR is handling this whole process, so you do not have inside knowledge of how it was compiled, who was summonsed if I can use the word to testify, and who was appointed ISB chairperson of the hearing.

YK: No, in fact I don't even know how the chairperson is appointed and how the weaknesses are.

RH: So from the board's side and top management's side, that's a process that carries on it's on the side, it is growing, and you guys just hear the outcome of it, not involved at all?

YK: Sometimes, like for instance, I have been involved as a witness, but now also my involvement as a witness, like if there are allegations and then they will say you need to testify or you need to give evidence on this specific work.

RH: Anything else on that view...

IH: Because it seems to me that Dudu initiates, you are saying she is almost, she is the catalyst in the process for getting these [audio unclear]... On the one hand she says she receives the information from people independently, on the other hand we have a suspicion that she goes hunting for the information. Either way, do you know of any times when she, or anybody else, you also, had any discussions with any people that had to testify in some of these disciplinary hearings where these people were told what to testify?

YK: Mostly I don't even know who are the other people who were involved in testifying.

IH: Let's take [Sylvain Bosk] as an example.

YK: Sylvain, there is a lady that I met at ENS, but I have forgotten the name of the lady and it was my first time to see her.

IH: That also testified?



YK: Who also testified.

IH: Was ENS just preparing the witnesses.

YK: I don't know if Ian prepared the witness, but I was not prepared as a witness. I got on the day of testifying.

IH: Was the hearing held at ENS' offices, whistle blowing. There were allegations that some of the evidence in [Sylvain Bosk] hearing was fabricated. Some of the evidence against him for this specific purpose of having him dismissed. Do you know anything about that?

YK: No.

IH: Nothing? OK. The Sunnyside meeting, my timeline seems to indicate that it was about the same time as the EMIRATES deal was called off by Dudu on the 16th June 2015 and on the 27th July Nico was transferred back to MANGO. It would appear that that whistle blowing event took place almost around the same time then. Do you have any hunches about what that Sunnyside expedition was about?

YK: No, I can't remember, as I am saying, it was about a year ago, but remember that the main whistle blowers so many whistle blowers.

IH: You said in the previous meeting that you can't tell me that, but you said it in a way that, not that 'I can't remember that's why I can't tell you', you said I can't tell you that as in we are still feeling each other out, we'll see whether I feel comfortable telling you that. I think you remember.

YK: No, I don't remember, but as I say there are many whistle blowers, so many of them.

IH: Do you know of even one example that you can peg down? This happened on this day, I know the whistle blower line was used. Just any single event of all of these events because you are saying there are so many of them, that you can say I know.

YK: No, I really want you know, because you see these deeds were not [audio unclear]... they are in Dudu's book.

RM: So when you say last year, can you even trace the month when you went to Sunnyside with her, last year sometime it was cold, was it raining. Was it June?

Handwritten signature and initials at the bottom right of the page.

YK: That's going to be difficult because we meet when there are meetings at SAA and then so or maybe when we are going to talk about SAA. So in my diary I will write SAA meeting with the chairperson, so I will not say SAA we went to Sunnyside.

RH: But I think again you can make the presumption that most of these, if I understand you correctly, these whistle blowing reports going through was about senior management people, so we can go and have a look and see exactly that at this period of time these reports came through and we can make to say that listen these we believe were prepared by Dudu.

IH: Right let's... Cynthia Stimple. The suspension of Cynthia Stimple was allegedly, and I actually believe as a result of the removal of the Bnp Bid documents. What do you know about this? Was the matter escalated to the board for discussion, because you said there was a board meeting wherein there was a legal reply, and the ENS letter when George van Niekerk wrote an item number 4 that said Myeni is not involved. Was the decision to suspend Cynthia Stimple, were you involved in that?

YK: No.

IH: Who made that decision?

YK: In all Cynthia reports to the CFO and I would think that all that, the decision is made at a GM level, in GM, Finance and which is CFO, and the GM of HR.

IH: So that would mean that it was [Phumeza] who decided to suspend her. Was it discussed with you or with Dudu... did Phumeza come and discuss it with any of you, saying this and this is what happened. The bid documents were removed.

YK: Yes, we were informed. We were informed of the events that led to that.

Tian: When about, before that, after that, I mean when were you informed, before the meeting where...

YK: No, I don't remember before or after, but I know the events led to that.

RH: Who informed you? You say that you were informed.

YK: [Phumeza].

IH: And what did she tell you guys?

YK: About the whole thing of Cynthia coming there and me getting the documents and bringing them in the morning, writing the sms message, yeah and all of that.

IH: Did she tell you about the SMS message at the same time she told you about the removal of the documents?

YK: Yes.

IH: So that would have had to have been quite a while afterwards.

YK: She told me about the SMS, but I didn't say, you see when I came here I did not have the events to say I got this on this on this date. If it is the case, if you want the specifics, then I will have to go and check my [unclear] and say oh I received this information about Cynthia's Stimple on this date. I merely am not going to say and I am also not comfortable to be asked about the specifics in respect of the dates, and then you tell me that this is what I said. I said I received the e-mail before or after, I don't have those specifics and if you want those specifics, then I pack and go and come some other time to say then this is the details received the e-mail from Stimple and this is what happened. So I am really not going to be in a position to tell you about the specifics.

IH: OK, then let's leave the dates for now then. Where you know the date, you know the date, and when you don't then we will move on, then we will also arrange a subsequent meeting so we just, because the dates are very important for the reason that depending on who said what on what date. Either what they are saying is true or what they are saying is not true. Some of it I know, some of it I don't know, but OK, if you say you don't remember those specific dates, that's fine.

TEA /Bathroom BREAK. Small Talk. (Phillips: 05h04)

Restart at: 00:51:40 (Phillips: 04h59)

IH: We are going to tone down the specifics, so we don't put you in a position where you just really don't know, not say so, then we can see if we can get to that at a later stage. Sorry if we made you feel uncomfortable, it's not the idea why we are here today, okay? Apology accepted?

YK: (Laughs) It's right, let's continue.

IH: Right, if we can go to the Ernst & Young report.

YK: E & Y report. So it goes with their appointment and report.

IH: Yes, so, they were appointed on the 28th July 2015. Do you know, you said the other day, I speak under correction, that the purpose of this report you believe was to get some people. Do you think it was... who wanted to get who? Do you know any of that?

YK: Eh, you see this report basically was intended to check where is SAA using losing money. Where is SAA losing money? Of course the report was discussed and I think you all know the contents of that report. So basically the reason why I was claiming that, you see it is very difficult to work with you in the sense that you will think that, like for instance when Ernst & Young was appointed to look at losses, it's fine, if you look at what you have, it's fine, but now you find out that whatever she says there is something behind that, that's what I said. Now with the appointment of E & Y of course they were appointed in the proper supply chain management process, and then the report, I think the report was also genuine in the sense that this is what it said. There is this contract that is accountable [unclear...] contract and therefore contract has been put in place and there is these where they failed to negotiate then we must go and negotiate, but the Ernst & Young report whenever they give a person that Dudu wants to fire, she will make reference with the E & Y report and this Ernst & Young report is cut across. You see in such a big organisation there is no way that you will come up with a clean report, but now this report basically was used to say, oh, this is what is happening in that department, then E & Y report is saying about that department, and then that person must be disciplined, you see something like that. Instead of getting this report, sitting down with whoever responsible, saying correct, but instead of that you used to correct, then I felt that it is used to target certain individuals.

IH: The recommendations in this report. How many of them, what happened to the recommendations?

YK: You see, as I said in the last meeting, that report was not discussed with the executives who were supposed to respond and after discussion with the executives, main issue, we formally adopted the report.

IH: Was not discussed with a single executive?




YK: No, the last time that was supposed to be discussed was when we meet again, I think maybe a month ago when Nick Linel together with EY people, best at EXCO to discuss this report and the executives defied him. The reason being that some of them it was their first time to see it in EXCO, whereas generally when you audit be it, normal audit or forensic whatever audit, you will discuss it with the person, because some of it means that if you require just an explanation and not find the EY report. So now Ernst & Young was required to go back and discuss the findings with the relevant people and then it gets adopted at EXCO having been accepted as [unclear]. So it has meaning to report but I know the contents because I was leading that and also the whole board knows about it, because they were told from time to time what is in it.

IH: Who told you? Was it Nick? Your favourite.

YK: Yes

IH: So, am I right if I say to the best of your knowledge, none of these recommendations have formerly been implemented?

YK: You see some of them may have been implemented.

IH: But not as a result of that panel board instruction to implement?

YK: No.

IH: Was there no board resolution, saying alright we are going through the process, we adopt this report.

YK: Definitely not.

IH: Who was stopping that process from happening? Let me rather ask why wasn't that happening?

YK: You know, I think maybe it's because of, maybe lack of proper planning, maybe confusion in the sense that we will be having meetings where this report has been discussed and then maybe, the chairperson talked about this was discussed in a proper board meeting.

IH: Do you think she was mistaken that it had been discussed and a decision had been taken?

YK: I think so, hmm.



IH: And you, were you under the impression something had been done about this report? Or that it had been discussed, or that it was no longer necessary to look into it, or whatever...?

YK: Right, now all of course that is supposed to be discussed at the board, is supposed to be properly discussed and before the board it needs to be discussed by EXCO and then the company secretary puts it in our board pack.

IH: And that never happened.

YK: No

IH: Didn't you ever receive a copy of this report?

YK: I have a copy.

IH: At the time you left, was this report still on the table for possible discussion, later?

YK: At the time I left, that report was yet to be tabled at EXCO and remember that before board to be included to go to EXCO.

RH: What was the cost to compile this report. What did it cost SAA?

YK: The cost for Ernst & Young was R1,2 million.

IH: That's not bad.

IH: Was this report, before this report, was there another report by ENS?

YK: I don't know.

IH: Because the information we have is that ENS did a report before this report and that the reports are very similar.

YK: Similar in nature? ENS? No I don't know.

IH: Do you know anything about the anti-corruption train that ENS provided.

YK: Yes, yes I heard about it.

IH: What's involved in it. Do you know about ENS were appointed to provide that anti-corruption train?




YK: ENS, I don't know how basically... You know ENS there will be some sort of urgency and then the ENS name would come up in the board. Then this appointment of ENS report [audio unclear] ... in fact I have using the [workload] contesting against ENS to say EMS has always been parachuted because there would be an urgency to say this is happening, this is happening, now, now, now, we need a quick report on this and so on and so on. So and in fact he also the chief audit executive complained to me that he has got a panel of what is being investigated, but when we as the board keep appointing ENS without following a process, and now seemingly this process of the board where it is urgent, that we need to quickly appoint a legal firm and ENS is finding their weekly processes and we do not have to go to tender for ENS and basically that's how ENS has been appointed, in fact considering that your list is long maybe the appointment of ENS I can also take it with the appointment of Nick Linel, when Nick Linel was appointed as the board advisor on [govern] specific and now seemingly he ended up doing advisor a board advisory, but not advising him and Dr [Dun?] but advising the chairperson.

(Phillips: 4:41:25) Now the case, what is happening with the contract agreement with Nick Linel when I left, is that Nick Linel had exceeded the budget, and now management wanted the board to ratify the difference by which the budget exceeded, and also provided budget for Nick Linel going forward.

IH: When was it performed?

YK: I think it was around [December?]2014 I think and the reason why I remember it was related with [unclear].....

RH: You said that ENS was appointed because there was an urgent matter ... the board says appoint without going through due process. Can you make an example of such an urgent matter where they had to be appointed on that urgent basis?

YK: You see all the now appointments which basically I said to management I need to find out how many appointments were done in respect of ENS and find out if for instance we had to ratify because they were not properly appointed, let's do that. I don't know but I'm thinking that maybe an SD purpose 6 or 7 or 8 assignments on that basis.

RH: On an urgent basis.

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YK: Yes.

RH: And another question just before about Nico Nel the over extending of his budget, were there any steps taken to ratify that situation?

YK: Yes that was taken to the next board meeting that I attended on Tuesday.

RH: And the result on that discussion, was there a decision made?

YK: No, I didn't allow to be included in that meeting, because it was basically parachuted.

IH: How much was Nick Linel paid per month? What was his contract can you remember?

YK: I don't know, I believe his contract was basically was about 500, I am not sure. I think it was about 500 but I was thinking that from the invoices that I am seeing, which I was not aware whether they were monthly or not, but Nick Linel is claiming about 200,000.00 at any point in time. The reason why I am saying at any point in time is because I don't know if it is monthly, but the invoices that I am seeing are in that region.

IH: Sounds more like a retainer kind of arrangement, rather than the number of hours working for the board, by the sound of it, no due process in appointing of Nick

YK: When you were asking me that, wanting to see if there was anything wrong that you did, you need to correct it, when we are asking that, because Nick was appointed by the board collectively in a board meeting, although he ended up not working for the board, he ended up working for Dudu, but he was appointed by the board to advise us on [unclear].

IH: Why did you think he would be able to advise you, he is not even South African lawyer?

YK: That is what we thought. When he was presented by Dudu, she presented him as the lawyer.

IH: She presented him as a lawyer and did he say yes I am a lawyer.

YK: Yes, of course we wouldn't ask him if he was a lawyer. We can't say a lawyer or not, if he is presented as such.

IH: You say he was presented, did she put on the agenda, the appointment of an advisor.

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YK: It may have been put on the agenda. It may have been not necessarily as a line item to say, here is his CV, here is the work that he has done.

IH: You did not see his CV.

YK: No.

IH: Why did they appoint somebody without a CV that served the board?

YK: No, for instance that person is saying this is Ivan and he is a lawyer by profession. He has done this work over in this and this and this and this and we are only you believe me what I am saying and then there is an [added..... [unclear]] that this person means to advise us on this matter on the table, so basically it is also urgent and I believe that this person as he is presented, is a lawyer by profession.

IH: Seeing Nick Linel received this report, did he ever discuss this report with you?

YK: No he did not. There was no reason for him to discuss this with me because we would have meetings with Ernst and Young and he would be present.

IH: About [Modisi Khulawa]. What were the circumstances, can you remember why was he suspended?

YK: I can't remember the facts.

RH: Too many suspensions. It was charges were also on the ground equipment, the Senegal Route [unclear] if I remember correctly, or ...

YK: Senegal.

RH: And then the relationship with someone at Air Chefs.

YK: ... Air Chefs yes.

RH: Then basically the 3 main ... I think it was to do with the baggage wrapping system, was also not done through due process.

YK: Yes, in partnership in baggage wrapping not following process, Senegal, I think that was a level of representation (Phillips: 4:31:3) [unclear] where the minister spoke directly with him instead of following protocol [Audio is not very clear here].

IH: [Masimba Dowa], can you remember why he was suspended?

YK: [Masimba Dowa] I would think the insubordination, in a nut shell.

Tian: Can you remember what the events were, why was he insubordinate, what did you ask him to do?

YK: [Masimba Dowa] basically was going with us to the road shows for transformation and [Masimba Dowa] of course in those road shows there would be some actions to be taken and [Masimba] Dowa would say yes he would do these things and when Masimba would say, in a [unclear] I am going to do that. So basically that is in the nutshell in respect of Masimba.

IH: Do you remember that letter you wrote to that Dudu, about Masimba?

YK: Yes I do.

IH: Is that the letter that led to his dismissal in the end?

YK: No, I don't think so. I don't think it was an action. I don't think Dudu acted on the letter that I sent about Masimba.

IH: It appears that your letter was sent and then the charges started coming in, the other charges.

YK: What other charges?

IH: Sho, I can't remember, I have it somewhere. OK.

RH: Just on that, you said the thing was that he did not perform tasks instructed to him, especially on the road show. While we are at that, maybe we can touch on the procurement situation regarding the 15% and 30%, because I think the road show was there to attract small and medium businesses background for a specific percentage of the procurement of the Jet fuel. Is that basically the...?

YK: No, not necessarily, it was for procurement in general.

RH: So where did that instruction come from?

YK: Instruction came from the board, in fact that that one, I was the one who was asked to lead and I agreed because I believed in it and I still believe in it.

RH: Who asked you to lead that?

YK: The chairperson.

RH: I hear you say you still believe in the transformation agenda. But at that stage Treasury as well as DTI wrote letters instructing especially to the chairperson to say that this must be stopped immediately. If I remember correctly, one of the letters of Mr Kenneth Brown. Why didn't the chairperson, why did she carry on, surely she shared the contents of these letters and concerns from National Treasury with the board, why did it carry on?

YK: There was also a protocol challenge then, because Kenneth Brown, Kenneth met [unclear] chairperson. The chairperson is reporting to the Minister, so what Kenneth Brown should have done, he should have gone his DG, I don't know the protocol levels there, but I knew that Kenneth Brown is not a DG. So what Kenneth Brown should have done. He should have gone to the DG and Minister and the Minister as a shareholder writes a letter to the chairperson, and that did not happen.

RH: So this whole instruction from Treasury and DTI was basically ignored because of not following the correct protocol.

YK: Yes, not following protocol and another thing, we responded to Kenneth Brown, if fact I don't know if you have got the response letter. We responded to Kenneth Brown saying if there is anything wrong in terms of specific act and specific section of the PFMA Act, we need to sit down and meet, because we believe in empowerment of small medium enterprises. He did not respond to this letter. We also responded to [unclear] at DTI and she responded back and her response basically was saying, of course I can't quote her, I don't have it, but basically her response was saying there was nothing untoward that she can point in what we are trying to achieve.

RH: So basically she gave the "thumbs up" for, the okay for what is busy transpiring. Did the Jet fuel deal with the beneficiaries, the small companies being put together in a consortium etc... etc... all on procurement. What happened did it go through? Is it still in progress, who is driving that specific project?

YK: No it is still in progress.

RH: Who is driving that specific project now?

YK: Procurement is driving it.

IH: That Jet fuel deal. Do you remember, I think somebody asked, not sure if it was Dr Dawa to sign an award for their company yet to be named.

YK: Yes, that also [unclear].... You see, what we said when there was [unclear]... Jet fuel was due for renewal, we said 30% of this must be set aside because there are people who have coming to SAA, small companies that have been coming to SAA, wanting to get involved. But they are all closing all doors. Now what we mean what we said, we said 30% let's test this 30% if for these companies that have been knocking to deliver 30% and then Engen came and said we are willing to give you a percentage, but we are looking at 30%. We will give you 15%. We will only give you that and then we said thank you very much Engen, but now because there are so many companies in SAA database, what we need to do because this 30% we wanted it to be set aside to benefit the BEE companies. So now what we did in fact I wrote you that footnote, in the instruction for Dr Dowa, to say we have got so many companies I think we are [unclear] database who said they are in a position to supply Jet fuel, and then we said instead of discriminating and give one company the 30% or 10% that was given by Engen, let us give all these companies because the board resolved that the 30% or whatever we agreed would set aside for BEE companies. Now we are saying all these companies that are there, let them supply this 10% for example, this 10% of Engen. Now I am saying as I said in the roadshow, it is difficult for SAA to enter into the contract for supply [unclear]... Therefore, what I know you should get, in fact I specifically said I will buy you a Shelf Company, of course I am not a beneficiary in this shelf company, but I am thinking, assume that this shelf company R2,000.00. If we are going to call it 2000 from 60 [unclear] companies it is going to be administrating battle because I so much wanted Blacks to benefit from the supply chain management processes of SAA which have been dominated by whites. I am going to buy this company and no costs at all to SAA and then all of these companies, 60 companies, are going to benefit to be the co-owners of this one shelf company, and therefore instead of SAA entering all 60 of them I think I even said, for the purposes of administration SAA and another thing also Engen was supposed to enter into this thing with this 60 companies, so instead of saying let all of them sign a contract with Engen, to say Engen is giving them 10%, let them sign with only one company, so basically that is where I said, I said to Peter [unclear] out service provider. Can you please coordinate these people and find out and do all of this legal

requirements? Make sure that this company enters into a contract with Engen to seek this 10%, so basically that is what happened and [unclear] said basically is one of the companies in our database who was going to make sure that this one company that benefit all 60 companies, is [unclear].... but it never happened and in fact it is something that I still believe would have made a big difference in the supply of Jet Fuel, so that other people can benefit.

IH: Did you ever think of how 60 different people would have, who would have done the work.

YK: No, we also did think about that. Sixty companies of course you buy Jet fuel and then you supply to SAA, so those 60 companies will put together money for the purchase of Jet fuel, so it is not one company that buys 10 litres and then the other one buy, because all of them will be coming from Engen...

IH: Didn't you think it would be Why didn't you just wait to say okay here are the exact 60 companies, we have spoken to them, they know what they are in for, they know what is coming for them, and say now we can possibly consider doing the audit. Why would you do it the other way around.

YK: No, the reason why I recommended that all 60 of them should benefit because all sixty of them have been knocking on our doors, so basically instead of benefitting one company it would be better for 60 companies to benefit.

RH: Who would have run that "Mother" company? (01:32:05)

YK: What the instructions that I gave to [Peter], I said I would get you to buy the shelf company and then [Dr Dowa] had, okay I'll get you to have this company and these companies are saying that they will provide Jet Fuel in whatever way, but now there is no need for them to go back to the, but they will put in money, all of them together, and then help this company, and then Pieter is supposed to arrange a meeting with them and then that initial meeting that is where they will be discussing as to who are going to be the board members of this company and then after that, then Pieter would go because now this company would have got them a facilitator.

?: Was there a board resolution passed.

YK: There was a board resolution for the to the sixty companies.

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?: But you did not know which sixty companies.

YK: Sixty companies in the database.

?: Are all sixty companies in the database. So if another small company wanted to participate in this and they had not yet contacted you, how would they have participated.

YK: We also did consider that. Remember the one that we are talking about was the one for ENGEN who had already committed and we were still doing the roadshows, so now we were saying and that was also for only one year, so we would still be waiting for a representative from SASOL, BP and so on, all the other So the others would also be able to benefit like the new entrants would be able to benefit from the one that you will be given by and they would also benefit for the new one the following year.

Tian: If you didn't put out an advertisement saying "If you are a small company that is interested in providing fuel to South African Airways, please come and talk to us, so that we can vet you, check whether you will be able to supply it, that you meet the credentials etc., then we will draw a list of 60 companies or nominate?? the companies and then at the end we will put it through the procurement process and you will form part of a holding company that will....." There is nothing like that, that has happened.

YK: It happened subsequently on the advice of the Procurement office after Dr Dowa had left. So that the acting procurement officer said, let us put this thing on tender and make sure that all participate. So basically that is the process that is still

Tian: Dr Dowa was suspended for giving exactly that advice.

YK: I don't remember him giving that advice. If he gave that advice then maybe we did not hear him, because Dr Dowa. Dr Dowa will say he is going to do that and then he ends up not doing that, because basically he advised that, that is also what we did as we did when we got the advice.

Tian: So, lets say if Dr Dowa provided that advice, the same as Lester Peters, the same advice, would you accept then that that advice was actually correct.

YK: Yes, sure.



Tlan: So, him not signing that award would have actually been the correct step to have taken, because if Lester Peter's advice subsequently was correct and Dr Dowu's advice correct, he was actually within his rights not to sign that letter of award.

YK: If he advised us, of course if he advised us and then we say he would have advised us, but you will still say this is what is happening, then maybe it will be different because we will not be taking that as insubordination.

Tlan: OK

Ruan van Wyk: While we are on this topic, the chairperson also wrote to Dr Dowu to include these eleven other companies for the Jet fuel supply recommendation contract, basically to get them also to participate in this sixty companies with the one company etc., am I correct?

YK: So, what is your question.

Ruan van Wyk: The chairperson sent another letter being heard, for she CC'd you on that as well, proposing a few extra that was not on the list that was part of the

YK: Part that was not on the database.

Ruan van Wyk: Yes.

YK: Remember that our database was open because we were still doing the roadshow.

Ruan van Wyk: No that is not a problem. There was a request to do insight on the people there. I just want to find out, to confirm this first, you said now-now as well it is the promotion of poor Black people to participate and who can, that you would uplift them through this process participating in this, is that correct.

YK: No, you can't say poor Black people because some of them are not poor at all. Of course there are poor Black people but you cannot say the promotion of poor Black people. We are promoting the Black Economic Empowerment.

Ruan van Wyk: That is what I wanted to find out, because I now investigated these names, some of these companies are quite big and they are successful companies.

YK: Yes, but that is why I am not agreeing with you when you say "Poor Black People"

Two handwritten signatures in black ink, one above the other, located at the bottom right of the page.

Ruan van Wyk: So it was not an upliftment, it was actually to broaden "Black Participation", that is actually the correct term. OK

Wayne??: Do you know, those eleven names, where would you have gotten those names, because they were externals.

YK: Of course, you do as the ambassador?? of transformation. Of course people will call in saying we are not the of SAA, so I think she would have got those things through people phoning her, because of the drive.

Wayne??: Do you know if any of these companies, not only the eleven that she added, also the other 50 that was on the list previously, do you know if she, or you, or anybody on the board, or anybody had a relation with any of these companies, do you know.

YK: No.

Wayne??: You don't know or you don't know.

YK: I don't know if there is anyone who has a relationship with those companies, but I do not have any relationship with those companies.

Wayne??: OK

Tlan: Isiza Zulu, his name appears on the list, do you know who he is.

YK: No

Tlan: Any other questions.

Ruan van Wyk??: Just one last one. Why did you propose the extension to ten years instead of three years for the ENGEN contract.

YK: Years. You see when assuming that these companies benefit or these companies are involved when they go to the bank obviously there is supposed to be some capital outlay we that and so on and so on. So we would have to go to the bank and borrow money for the trucks or whatever is involved in dealing of the Jet Fuel. Therefore 10 years was and would assist them to be funded by the company.

Ruan van Wyk: It was not a short contract.



YK: Yes, it wasn't having that they need to put in capital.

Ruan van Wyk?: If you can assist me. Do you know if this procurement policy, what does the procurement policy say around long-term contracts with one supplier, more than 5 years.

YK: I don't know, but from the top of my head, I think if it is more than 5 years. No I don't want to guess, but my thinking at the time was that if it is more than 5 years we will need a Treasury concept which basically I was thinking is something we need to do when this thing falls into place.

Ruan van Wyk: So this thing is still ongoing at this stage.

Tian: The Swiss Port.

YK: The Swiss Port.....

Tian: Let me just ask something about the Jet Fuel thing. Do you know of any conversations that took place behind the scenes that somebody would have personally benefitted from the awarding, that actually had nothing to do with it. Somebody who would have personally benefitted from the awarding of the Jet Fuel contract that should not have benefitted, for instance let's say, I took out a tender, is my friend, he gets the tender and afterwards he gives me money because I gave him the tender. Do you know of anything like that happening.

YK: No, but I am also thinking that considering that there will be 60 companies and then of course I understand the margins what, so I really do not think that there could be any benefit for anyone.

Ruan van Wyk: Last question on this company. What is the company's name, I just don't know.

Tian: Quintasencial Businesses.

Ruan van Wyk: The shelf company. Do you know Quanto Teralexor Ntua, he is the current director of that company.

YK: No



Ruan van Wyk: So nothing happened with the company. The shelf company was transferred, she got the directorship and it is still just going.

YK: Yes.

3:56:34

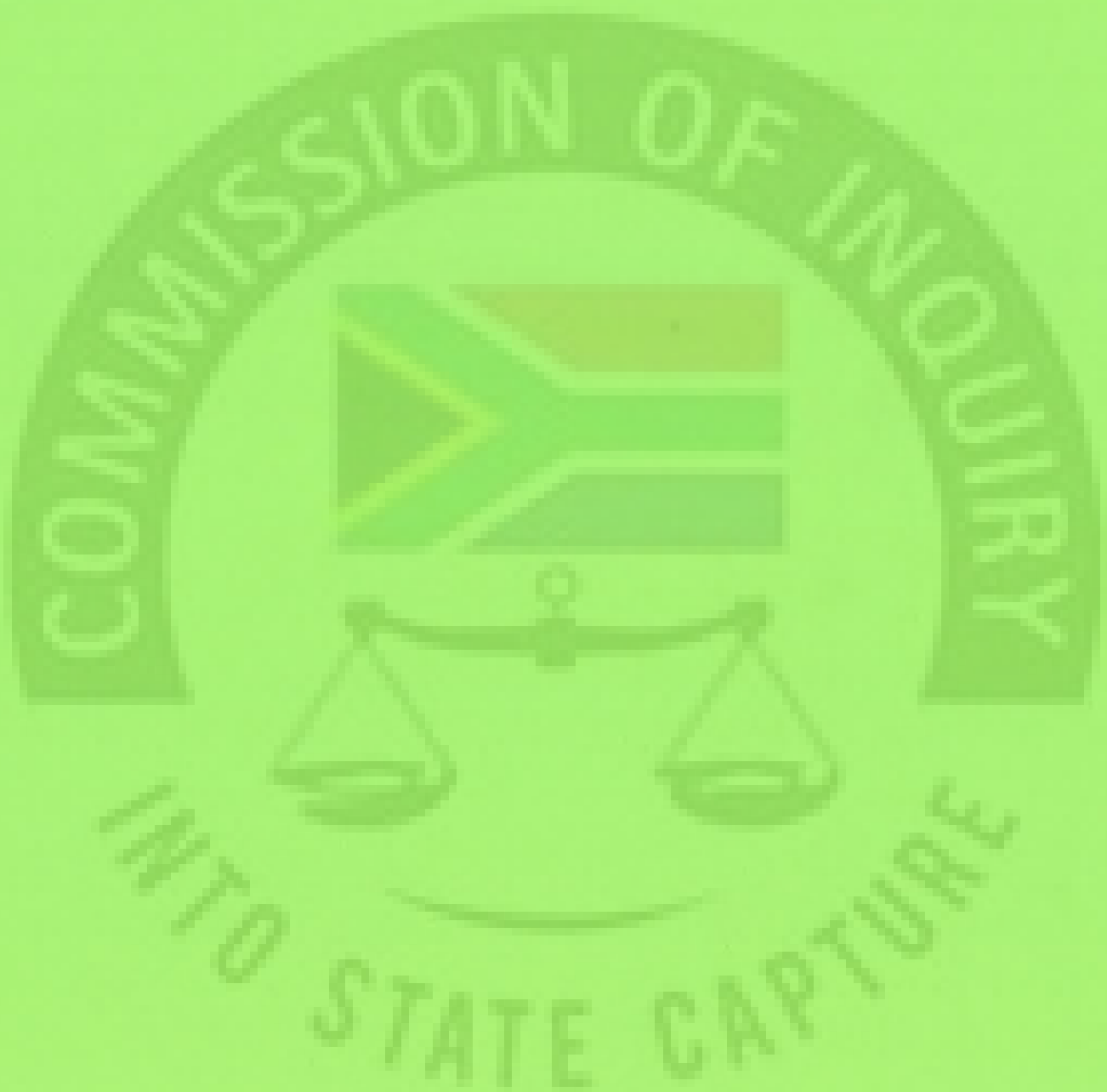


A handwritten signature in black ink, consisting of a stylized 'R' followed by a series of loops and a final flourish.



A handwritten signature in black ink, consisting of a stylized, cursive script that appears to be the name "M. M. M." followed by a flourish.

Annexure “TM32”



Andrew A. Keartland

From: Yakhe Kwinana <yakhe@kwinana.co.za>
Sent: Monday, 07 September 2015 09:47
To: Ruth Kibuuka; Mabana Makhakhe
Subject: FW: Whistleblower

Best Regards

Yakhe Kwinana

Tel 012 807 0801
Fax 012 807 0633
Cell 079 950 0610
Email yakhe@kwinana.co.za
Physical Address Alenti Office Park, Block H, 457 Witherite Street, The Willows Ext 82, Pretoria, 0184

From: Yakhe Kwinana
Sent: 07 September 2015 08:45 AM
To: yakhekwinana <yakhekwinana@gmail.com>; Yakhe Kwinana <yakhe@kwinana.co.za>
Subject: FW: Whistleblower

Best Regards

Yakhe Kwinana
Managing Director

**Kwinana & Associates
Incorporated**

AUDIT - TAX - ADVISORY

Tel 012 807 0801
Fax 012 807 0633
Cell 079 950 0610
Email yakhe@kwinana.co.za
Physical Address Alenti Office Park, Block H, 457 Witherite Street, The Willows Ext 82, Pretoria, 0184



From: Yakhe Kwinana
Sent: 07 September 2015 07:47 AM
To: John Tambi <johnt@nepad.org>
Subject: FW: Whistleblower

fyi

Best Regards

Yakhe Kwinana

Tel 012 807 0801
 Fax 012 807 0633
 Cell 079 950 0610
 Email yakhe@kwinana.co.za
 Physical Address Alenti Office Park, Block H, 457 Witherite Street, The
 Willows Ext 82, Pretoria, 0184

From: Yakhe Kwinana
Sent: 04 September 2015 11:05 PM
To: 'Siyakhula Vilakazi' <SiyakhulaVilakazi@flysaa.com>
Subject: Whistleblower

Dear Siya

Please find an anonymous Whistleblower that was walked in :-

1. Sylvain Bosch often visits Mr Roger Vorster in Knysna, stays in his holiday home and flown in his private jet and failed to disclose this improper gift and a personal benefit and relationship.
2. Sylvain Bosch failed to disclose his relationship with General Sales Agency (GSA) that is operating in West Africa as this contract was awarded and affected local 24 Senegalese employees of SAA who are now without jobs. Their jobs ended on 29 April 2015. He hired a GSA which replaced these employees. He is a current shareholder of this GSA.
3. Sylvain doctored the numbers for Abu Dhabi to favour the opening of this route and sold SAA out. He knowingly misrepresented the board by overestimating the figures without substantiation and ignored network specialist advice.
4. Sylvain's unprofessional conduct leave much to be desired. His jokes around and in the corridors of SAA are that Dr John Tambi, a board member of SAA, wants the position of a CEO and that he doctors the specifications that this job requires that a person must be a Doctor and must be from Sierra Leone. This joke is distasteful and brings the reputation of all board members and SAA into disrepute.
5. Sylvain and/or his wife and children are possible illegal immigrants.
6. Sylvain continuously threatens to resign if things are not happening according to his plans and wish. For instance, he failed to honour his word that he would resign if the Emirates deal is not signed. This has an effect of distabilsing his division and he shows lack of commitment to SAA in a very fragile competitive market.



7. Germany catering company was pushed by Sylvain
8. Matters arising not dealt with at the last Board meeting regarding Sylvain

Best Regards

Yakhe Kwinana
Managing Director



**Kwinana & Associates
Incorporated**

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Annexure “TM33”







Andrew A. Keartland

From: Andrew <anddrewkcommissions@flysaa.com>
Sent: Thursday, 23 May 2019 12:36
To: Andrew A. Keartland
Subject: FW: FW: Projected losses of South African Airways operations between Johannesburg and Abu Dhabi
Attachments: AUH numbers with 79.5% Load factor.eml; FW SA_AUH.XLSX.eml; FW SA_AUH.XLSX.eml; AUH PFMA.eml; AUH notes.eml; AUH analysis.eml; FW DXB & AUH fares.eml; FW SAA Strategy white papers.eml; Confidential EY preliminary numbers.eml; SAA AUH Response1.docx

From: "Matome Ramokgobedi" <MatomeRamokgobedi@flysaa.com>
Date: 14/10/2015 at 12:42:42
To: "vincent@ssa.gov.za" <vincent@ssa.gov.za>, "funim@ssa.gov.za" <funim@ssa.gov.za>
Subject: FW: Projected losses of South African Airways operations between Johannesburg and Abu Dhabi

Matome Ramokgobedi | Manager: Network Planning | Commercial

 Mobile: 082 451 5841 |  Phone: +2711 978-1903 |  Fax: +2711 978 1725 |  E-Mail: MatomeRamokgobedi@flysaa.com

Room 114, Floor 1, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Matome Ramokgobedi
Sent: 07 October 2015 03:19 PM
To: 'dmcmaster@ENSAfrica.com'
Subject: FW: Projected losses of South African Airways operations between Johannesburg and Abu Dhabi



Matome Ramokgobedi | Manager: Network Planning | Commercial

☒ Mobile: 082 451 5841 | ☒ Phone: +2711 978-1903 | ☒ Fax: +2711 978 1725 | ☒ E-Mail: MatomeRamokgobedi@flysaa.com

Room 114, Floor 1, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Matome Ramokgobedi

Sent: 16 July 2015 05:00 PM

To: Sylvain Bosc

Cc: Barry Parsons; Louis Du Plessis; Lusanda Jiya; Viwe Soga; Siyakhula Vilakazi

Subject: RE: Projected losses of South African Airways operations between Johannesburg and Abu Dhabi

Dear Sylvain,

Attached in a word document is the response to the letter from the ministry and answers to the first batch of questions are on the board submission business case and section 54 submitted to National Treasury.

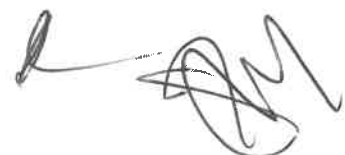
- First four pages of the document are answers Gaurav Agarwal provided on request from you.
- The rest is the e-mail trail regarding Abu Dhabi to that that Network Planning was never in support of launching Abu Dhabi without something having to give.

I have spoken to Lusanda regarding the monthly NT minutes and we could not find anything that clarify the statement from the letter.

Allow me to kindly reiterate that Network Planning **will not** and **is not** taking responsibility of the launch and projections provided on Abu Dhabi as stated in the letter from the Minister :

"I am also concerned about the lack of capability of the Network Planning and Finance divisions of SAA and their capacity to provide reliable projections. These divisions both need to be strengthened to ensure that the information the executive, board and myself use to make decisions is robust."

The statement is a misrepresentation of our capability and in fact career limiting, thus request that the management of South African Airways clarify any misunderstanding with the ministry or allow the team in our own professional capacity and or through the leadership/management to clarify with the National Treasury.



We had similar enquiries/query from the office of the Chief Audit Officer (Siyakhula Vilakazi) where not in so many words Network Planning was blamed for Abu Dhabi and that we are using outdated tools, lack capability hence InterVista was brought in with their advanced tools (lift plan). We have however clarified that with the Chief Audit Officer that in fact the Network planning demand analysis tool we are currently using is used by STAR Alliance to assess the entire STAR network.

Background on Abu Dhabi

In 2013 the South African Airways resolved to source the services of the consulting firm Oliver Wyman to put together a turnaround strategy which gave birth to now the "LTTS" (see Attached "SAA Strategy white papers", and

- Among some of the routes they recommended was own metal operations to Abu Dhabi
- SAA then went ahead to sign a codeshare agreement with Etihad even when Network Planning and Alliance (Gwen can attest to this) advised against the codeshare as there was no value in partnering with Etihad on a codeshare agreement only
 - Though I was an Analyst then and not responsible for long-haul operations, I vividly remember the frustration on both Gaurav and Greg (in the beginning) when they were forced to justify the case, as I was asked occasionally to run QSI to evaluate viability and there was no case from QSI perspective, though QSI is not a gospel however even based on the knowledge of the market it did not make sense
- Network Planning did advise the management then that Oliver Wyman overstated the case as they went against a QSI rule of thumb by raking the rating to make the case viable
- Almost everyone within SAA's commercial and operations since Keith Green's departure has been to Abu Dhabi several times but Network Planning, and additionally contrary to the normally process the Abu Dhabi route launch project was given to Brad Edwards instead of Network Planning.
 - Also, we were never and still are not invited to any discussions with Etihad or any potential partners as per normal process or industry practice.
- The previous Network Planning was involved in all SAA decision making and represented SAA/Network in all internal/external forums, however that seem not to be the case with the current Manager
- As the manager of Network Planning I questioned Alliance's request regarding the "rationale" of codesharing with Etihad on MAN and other European points and was severely reprimanded/nearly suspended (there was a formal complaint launched – the then HOD Martin Aeberli advised) for "undermining the leadership/management".



Late February 2015, South African Airways resolved to source the services of a consulting firm InterVista to review the Network Plan

- The document produced was commended by the National Treasury as “the best piece of work” ever produced by the state owned company
- InterVista gave all credit deservingly so to the current “lean” (in staffing) Network Planning team, in fact they commended our skills in front of the acting CEO, especially in light of almost exact figures regarding Abu Dhabi – with different models
 - It is really unfortunate that all credit is given to InterVista and zero to the team that provided the intellect
- We continue to allow Etihad access to our European network by giving them codeshare points and Network Planning still not consulted when such call are made
- On numerous occasion we have written to HR and Line regarding the urgency of filling the vacant positions, submitted the request form to the HOD Human resource during Martin Aeberli’ time and after, it was turned down even after Lourens Erasmus said it is ok to fill those vacancies, however positions has been created from non-existence and filled even as low as customer care agent within our business area, and Network Planning turned down
 - We however remain professional and continue to excel even under such unsustainable conditions (Only two resources supported by two Graduates)

Kindly advice if all in order and or additional information is required in this regard.

Regards

Matome Ramokgobedi | Manager: Network Planning | Commercial

☒ Mobile: 082 451 5841 | ☒ Phone: +2711 978-1903 | ☒ Fax: +2711 978 1725 | ☒ E-Mail: MatomeRamokgobedi@flysaa.com

Room 114, Floor 1, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Sylvain Bosc
Sent: 13 July 2015 09:50 AM



To: Matome Ramokgobedi

Cc: Louis Du Plessis

Subject: FW: Projected losses of South African Airways operations between Johannesburg and Abu Dhabi

Importance: High

Matome, can you start working on the attached letter ASAP please ?

Thanks

Sylvain Bosc | Chief Commercial Officer | Commercial

☒ Phone: +2711-978-9935 / 1732 | ☒ E-Mail: SylvainBosc@flysaa.com

Room 323, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Moire de Vos

Sent: 13 July 2015 09:48 AM

To: Nico Bezuidenhout; Sylvain Bosc; Noelia De Abreu; Barry Parsons

Subject: FW: Projected losses of South African Airways operations between Johannesburg and Abu Dhabi

Importance: High

Moire de Vos | Executive Assistant | Acting CEO office

☒ Mobile: 0833084065 | ☒ Phone: +2711978-2520 | ☒ E-Mail: MoireDeVos@flysaa.com

Floor 6, Block A, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Ministry Registry [<mailto:Minreg.Registry@treasury.gov.za>]

Sent: 13 July 2015 09:38 AM

To: Chairperson

Cc: Moire de Vos

Subject: Projected losses of South African Airways operations between Johannesburg and Abu Dhabi

Dear colleagues

Please find attached correspondence for Ms Myeni's attention.

Kind regards

Joanne Scott

Ministry of Finance

40 Church Square, Old Reserve Building, PRETORIA

Private Bag X115, PRETORIA, 0001

Tel: +27 12 315 5158

Fax: +27 12 323 3262

E-mail for official correspondence: minreg@treasury.gov.za

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Directors:

JB Magwaza* (Chairperson), V Jarana (Group Chief Executive Officer), AJ Bassa*, ML Kingston*, HP Maluleka*, TN Mgoduso*, T Mhiani*, AH Moosa*, G Rothschild*, MP Tshisevhe*

*Non-Executive Director
*British Citizen

Company Secretary – RN Kibuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

Annexure “TM34”





state security

State Security Agency
REPUBLIC OF SOUTH AFRICA

Private Bag X87, PRETORIA, 0001 State Security Agency Headquarters, Musanda, Delmas Road, PRETORIA
Tel: (012) 427 4000, Fax: (012) 427 4651, www.ssa.gov.za

SSDB/DG01/ (VA10)/6/1/14/5

Office of the Director-General SSA

22 October 2015

Acting Group CEO SAA
Thuli Mpshe
6th Floor C Block
Jones Road, Airways Park
O.R. Tambo International Airport
Johannesburg

REQUEST FOR INFORMATION REGARDING INVESTIGATION CONDUCTED AT SAA OFFICE IN DAKAR SENEGAL BY SAA INTERNAL SECURITY

1. The above matter bears reference
2. The South Africa Ambassador to Senegal Ambassador Shilubane wrote a report dated 12/04/2015 to State Security Agency (SSA) Director – General (DG) Ambassador Kudjoe requesting SSA to conduct investigation into the South African Airways (SAA) Dakar Senegal office.
3. The State Security Agency (SSA) instituted an investigation to probe among other things questionable transactions or actions by South African Airways (SAA) in Dakar Senegal including the closure of SAA Station in Dakar Senegal and allegation of corruption or fraud against officials of SAA
4. SSA is aware that SAA Internal Security has conducted investigations regarding complaint or allegations raised by employees of SAA Station in Dakar Senegal against some members of SAA Management.
5. SSA is hereby requesting to have access to the following information:
 - 5.1 The report of investigators who went to Dakar Senegal to investigate complaints of employees SAA Station in Dakar
 - 5.2 The report of investigation conducted against Mr Sylvian Bosch by SAA Internal Security.
 - 5.3 Current employment status of Mr Sylvian Bosch and Mr Claude Sabre former Country of Senegal.

Sikhungo Setokuphepha Kwembuso
Setho sa Tshireletso sa Mmušo
Ikoro yezokuPhepha kwelizwe

Staatsveiligheidsagentskap
Setho sa Tshireletso sa Puso
UPhiko Lwezokuphepha Kwezwe

i-Arhente yoKhuselo kaRhulumente
Xiyenge xa Vuhlayiseki bya Mumo

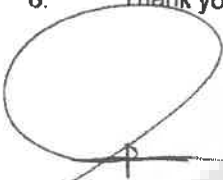
Zhandedzi la Vhutsireledzi la Muvhuso
Boemedi la Tshireletso Puso

CONFIDENTIAL

SSDB/DG01/ (VA10)/6/1/14/5

**REQUEST FOR INFORMATION REGARDING INVESTIGATION CONDUCTED AT SAA
OFFICE IN DAKAR SENEGAL**

6. The information requested will assist SSA to finalise its investigation on these matters.
7. Your assistance will be highly appreciated in this regard.
8. Thank you for your attention.



MV DLODLO
For Director – General SSA



CONFIDENTIAL

Annexure “TM35”



Attachment 2



SOUTH AFRICAN AIRWAYS

South African Airways
Acting CEO
Private Bag X13
OR Tambo International
Postal Address

1627

Tel: 27 11 978 2525

E-Mail: CEO@flysas.com

12 November 2015

MV Dlodlo

Office of the Director-General SSA
State Security Agency
State Security Agency Headquarters
Musanda
Delmas Road
PRETORIA

Your ref: SSDB/DG01(VA10)/6/1/14/5
Our ref: L Acton

Dear Sir/Madam

**REQUEST FOR INFORMATION REGARDING INVESTIGATION CONDUCTED AT SAA OFFICE
IN DAKAR SENEGAL BY SAA INTERNAL SECURITY**

1. Your letter of 22 October 2015 has reference.
2. We note that the State Security Agency's investigation is at the request of the South African Ambassador to Senegal, and although we are willing to co-operate with your investigation, do question whether this was the appropriate protocol/channel for any question regarding the closure by SAA of its station in Dakar, Senegal?
3. With regard to the specific information requested, we can at this stage advise as follows:
 - 3.1 The investigation undertaken by our Group Security Services (GSS) was commissioned by the then acting CEO of SAA pursuant to questions and allegations of maladministration and financial misconduct by the Country Manager, Mr Claude Sabre, raised by SAA staff at Dakar station.
 - 3.2 The items raised and addressed by the GSS investigation are all related to SAA internal governance considerations and the report has recommended a disciplinary process be instituted against Mr Sabre.
 - 3.3 Discussion between line management and SAA's Employee Relations Department are currently taking place regarding the disciplinary process and we can accordingly not comment further at this time.

Directors

OG Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambo*(Sierra Leonean), AD Dixon*

*Non-Executive Director

Acting Company Secretary - Mabana Makhakha

South African Airways SOC Ltd

Reg. No. 1997/022444/30

- 3.4 The GSS report does not deal with any investigations in respect of Mr Sylvain Bosc and has therefore no bearing on his current employment status.
4. We trust the above has clarified the current position in respect of your enquiry.
5. Your investigator is welcome to contact our Legal or Employee Relations Department(s) (with whom he has already had contact) directly regarding item 5.1 of your mail.

Kind Regards


Thuli Moseke
Acting CEO
South African Airways





Annexure “TM36”



Attachment 4,

Leon Acton

From: Ursula Fikelepi
Sent: 24 November 2015 01:34 PM
To: Leon Acton; Fundiswa Goduka
Subject: Re: SSA Request for information

Dear Léon

This matter has nothing to do with legal as we are not in dispute with the SSA. Therefore, ER as the relevant department should address this.

Kind regards,
 Ursula

Sent from my Samsung device

----- Original message -----

From: Leon Acton <LeonActon@flysaa.com>
Date: 24/11/2015 10:30 (GMT+02:00)
To: Thuli Mpshe <ThuliMpshe@flysaa.com>, Yolanda Barron <YolandaBarron@flysaa.com>, "Lourens Erasmus (Employee Relations)" <LourensE@flysaa.com>, Thembi Mngomezulu <ThembiMngomezulu@flysaa.com>
Cc: Ursula Fikelepi <UrsulaFikelepi@flysaa.com>
Subject: RE: SSA Request for information

Dear Thuli
 Shall do.
 Kind regards Leon

Leon Acton | Legal Advisor | Legal Services

Phone: +2711-978-3042 | Fax: +2711-978-1807 | E-Mail: LeonActon@flysaa.com
 Room 108, Floor 1, Block E, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Thuli Mpshe
Sent: 24 November 2015 10:26 AM
To: Leon Acton; Yolanda Barron; Lourens Erasmus (Employee Relations); Thembi Mngomezulu
Subject: RE: SSA Request for information

Dear Leon
 Please do from your side.
 Regards.

Thuli Mpshe | GMHR

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Leon Acton
Sent: 24 November 2015 10:21 AM



To: Thuli Mpshe; Yolanda Barron; Lourens Erasmus (Employee Relations); Thembi Mngomezulu
Subject: RE: SSA Request for Information

Hi Thuli

Shall I prepare a letter accordingly on your behalf or do you want it to go directly from ER?

Kind regards Leon

Leon Acton | Legal Advisor | Legal Services

Phone: +2711-978-3042 | Fax: +2711-978-1807 | E-Mail: LeonActon@flysaa.com
 Room 108, Floor 1, Block E, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Thuli Mpshe

Sent: 24 November 2015 10:02 AM

To: Leon Acton; Yolanda Barron; Lourens Erasmus (Employee Relations); Thembi Mngomezulu

Subject: RE: SSA Request for Information

Dear Colleagues

On hind sight please request the SSA to follow due process and the request should come from the Min of DIRCO to our Minister.

Regards

Thuli Mpshe | GMHR

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Leon Acton

Sent: 24 November 2015 09:48 AM

To: Yolanda Barron; Thuli Mpshe; Lourens Erasmus (Employee Relations); Thembi Mngomezulu

Subject: RE: SSA Request for information

Fine from my side, let me know the proposed time and date.

Tks Leon

Leon Acton | Legal Advisor | Legal Services

Phone: +2711-978-3042 | Fax: +2711-978-1807 | E-Mail: LeonActon@flysaa.com
 Room 108, Floor 1, Block E, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Yolanda Barron

Sent: 24 November 2015 09:45 AM

To: Thuli Mpshe; Leon Acton; Lourens Erasmus (Employee Relations); Thembi Mngomezulu

Subject: RE: SSA Request for Information

Leon, Lourens can I set-up meeting with SSA?

Yolanda Barron | Executive Assistant | Human Resources

Mobile: +27718506364 | Phone: +2711-978-2408 | E-Mail: YolandaBarron@flysaa.com
 Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Thuli Mpshe
Sent: 23 November 2015 09:00 PM
To: Yolanda Barron; Leon Acton; Lourens Erasmus (Employee Relations); Thembi Mngomezulu
Subject: RE: SSA Request for Information

I suggest that Leon and Lourens meet with them.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Yolanda Barron
Sent: 23 November 2015 03:23 PM
To: Leon Acton; Thuli Mpshe; Lourens Erasmus (Employee Relations); Thembi Mngomezulu
Subject: FW: SSA Request for Information
Importance: High

They are asking for a meeting.

Please advise.

Yolanda Barron | Executive Assistant | Human Resources

Mobile: +27718506364 | Phone: +2711-978-2408 | E-Mail: YolandaBarron@flysaa.com
 Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Vincent V. Mnguni [<mailto:Vincent@ssa.gov.za>]
Sent: 23 November 2015 02:25 PM
To: Yolanda Barron
Cc: Funi Madlala
Subject: FW: SSA Request for Information
Importance: High

Good afternoon Yolanda

After perusal of the responding letter from the office of the acting Group CEO dated 12 November 2015 Ref: L Action, we (State Security Agency) are not satisfied with the response from the AGCEO. Manager Security Investigations will like to meet with Acting Group CEO and Head of Employee Relations to discuss this matter with aim of reaching an amicable solution.

Please advise on convenient date and time for the proposed meeting.

Thanking you in advance and hoping to hear from you soon.

Regards

Vincent Mnguni
 State Security Agency
 Investigator (Foreign Mission Investigations)
 Tel: 012 427 5687
 Cell: 076 480 6150



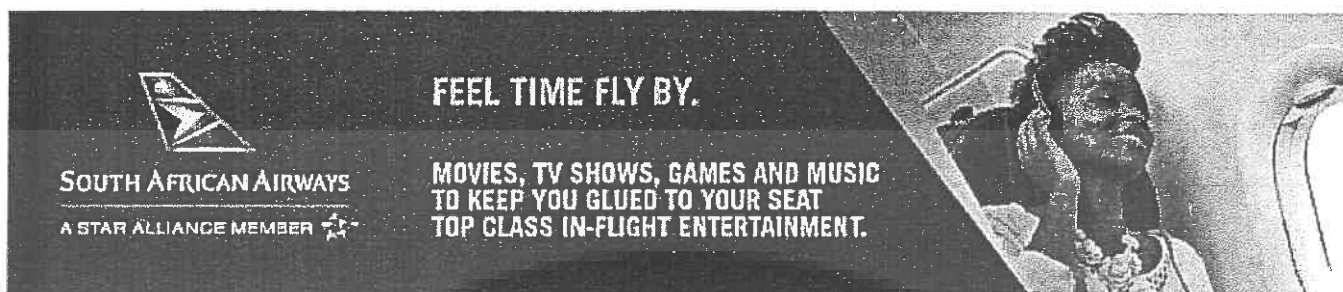
From: Yolanda Barron [YolandaBarron@flysaa.com]

Sent: 13 November 2015 08:39 AM

To: Vincent V. Mnguni

Cc: Funi Madlala; Leon Acton; Thuli Mpshe; Thembi Mngomezulu; Lourens Erasmus (Employee Relations)

Subject: RE: SSA Request for information



Dear Mr Mnguni

Attached please find a response letter from the Acting CEO. This is based on the attached letter dated 22 October sent from your office, see attached.

Kind regards.

Yolanda Barron | Executive Assistant | Human Resources

Mobile: +27718506364 | Phone: +2711-978-2408 | E-Mail: YolandaBarron@flysaa.com
Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

-----Original Message-----

From: Vincent V. Mnguni [<mailto:Vincent@ssa.gov.za>]

Sent: 28 October 2015 02:01 PM

To: yolandavarron@flysaa.com<<mailto:yolandavarron@flysaa.com>>

Subject: SSA Request for information

Good afternoon Yolanda

As per our telephonic discussion.

Regards

Vincent Mnguni
State Security Agency
Investigator (Foreign Mission Investigations)
Tel: 012 427 5687
Cell: 076 480 6150

[cid:115102909333605003@za-mta-3.za.mimecast.lan]

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Directors

DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean), A

*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30



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*Non-Executive Director

Company Secretary – Ruth Kibuuka

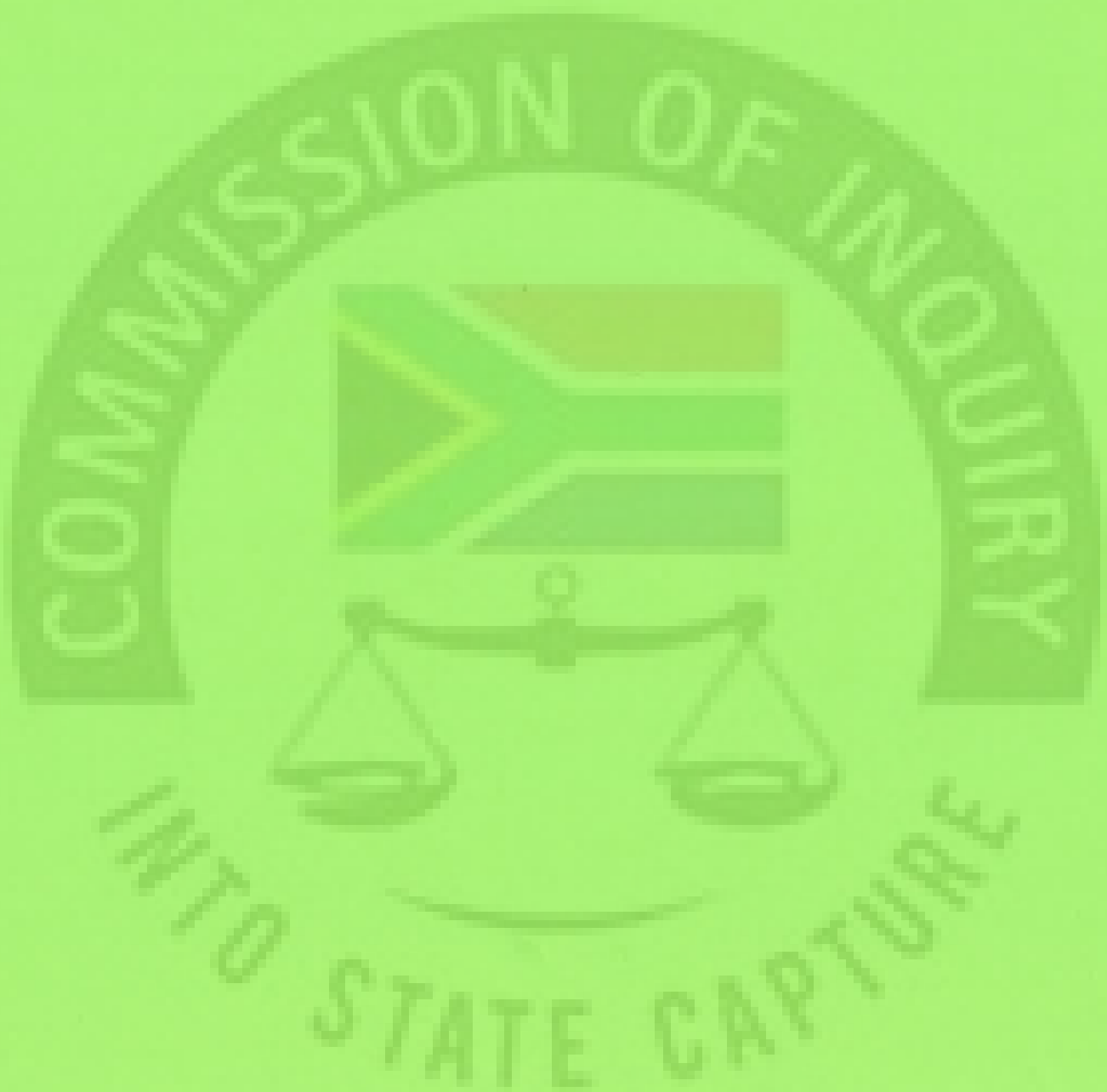
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Reg. No. 1997/022444/30

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Annexure “TM37”



Andrew A. Keartland

From: Yolanda Barron <YolandaBarron@flysaa.com>
Sent: Wednesday, 09 December 2015 15:41
To: Vincent V. Mnguni (Vincent@ssa.gov.za)
Cc: Lourens Erasmus (Employee Relations); Leon Acton; Thuli Mpshe; Thembi Mngomezulu
Subject: FW: SSA Request for information
Attachments: Letter to Mr Mnguni.pdf

Importance: High

Dear Mr Mnguni,
 Apologies for the late response. Please find attached letter for your attention.

Kind regards.

Yolanda Barron | Executive Assistant | Human Resources

Mobile: +27718506364 | Phone: +2711-978-2408 | E-Mail: YolandaBarron@flysaa.com
 Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Vincent V. Mnguni [<mailto:Vincent@ssa.gov.za>]

Sent: 23 November 2015 02:25 PM

To: Yolanda Barron

Cc: Funi Madlala

Subject: FW: SSA Request for information

Importance: High

Good afternoon Yolanda

After perusal of the responding letter from the office of the acting Group CEO dated 12 November 2015 Ref: L Action, we (State Security Agency) are not satisfied with the response from the AGCEO. Manager Security Investigations will like to meet with Acting Group CEO and Head of Employee Relations to discuss this matter with aim of reaching an amicable solution.

Please advise on convenient date and time for the proposed meeting.

Thanking you in advance and hoping to hear from you soon.

Regards

Vincent Mnguni
 State Security Agency
 Investigator (Foreign Mission Investigations)
 Tel: 012 427 5687
 Cell: 076 480 6150

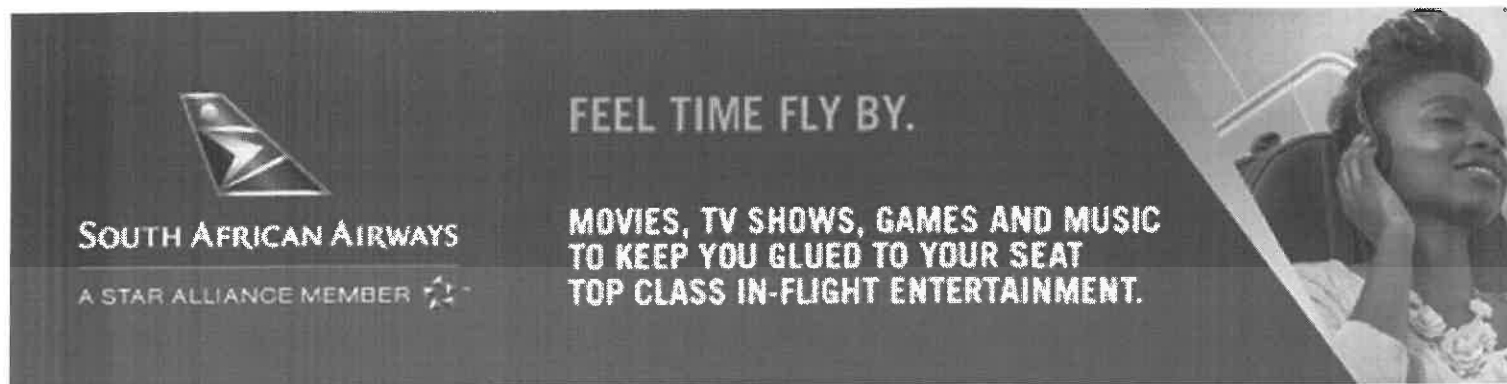
From: Yolanda Barron [YolandaBarron@flysaa.com]

Sent: 13 November 2015 08:39 AM

To: Vincent V. Mnguni



Cc: Funi Madlala; Leon Acton; Thuli Mpshe; Thembi Mngomezulu; Lourens Erasmus (Employee Relations)
Subject: RE: SSA Request for information



Dear Mr Mnguni

Attached please find a response letter from the Acting CEO. This is based on the attached letter dated 22 October sent from your office, see attached.

Kind regards.

Yolanda Barron | Executive Assistant | Human Resources

Mobile: +27718506364 | Phone: +2711-978-2408 | E-Mail: YolandaBarron@flysaa.com
 Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

-----Original Message-----

From: Vincent V. Mnguni [<mailto:Vincent@ssa.gov.za>]
 Sent: 28 October 2015 02:01 PM
 To: yolandavarron@flysaa.com <<mailto:yolandavarron@flysaa.com>>
 Subject: SSA Request for information

Good afternoon Yolanda

per our telephonic discussion.

Regards

Vincent Mnguni
 State Security Agency
 Investigator (Foreign Mission Investigations)
 Tel: 012 427 5687
 Cell: 076 480 6150

[cid:115102909333605003@za-mta-3.za.mimecast.lan]

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*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30



SOUTH AFRICAN AIRWAYS

South African Airways
Human Resources
6th floor
Jones Road
Airways Park

Private Bag X13
OR Tambo International Airport
Republic of South Africa

Tel: 27 11 978-2525
Email: GMHR@flysaa.com

State Security Agency
State Security Agency Headquarters
Musanda
Delmas Road
Pretoria

BY EMAIL: Vincent@ssa.gov.za

8 December 2015

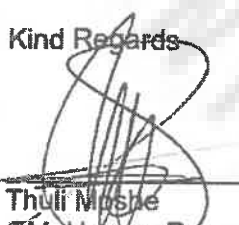
Your ref: SSDB/DG01/(VA10)/6/1/14/5

Dear Mr Mnguni

**REQUEST FOR INFORMATION REGARDING INVESTIGATION CONDUCTED AT SAA OFFICE
IN DAKAR SENEGAL BY SAA INTERNAL SECURITY**

1. Thank you for your email of 23 November 2015 the contents of which are noted.
2. For purposes of observing due process, we respectfully request your requirement be channelled through the Minister responsible for the Department of International Relations and Co-operation (DIRCO) to the Minister responsible for South African Airways for appropriate attention.
3. We thank you for your understanding in this regard.

Kind Regards


Thuli Maseko
GM: Human Resources

Directors

DC Myeni* (Chairperson), Y Kwinana*, JE Tambi* (Sierra Leonean)

*Non-Executive Director

Company Secretary - Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/02244/30

A STAR ALLIANCE MEMBER 

Annexure “TM38”



Andrew A. Keartland

From: Dudu M <dudumyeni@telkomsa.net>
Sent: Sunday, 17 January 2016 11:50
To: Nick Linnell
Cc: Yakhe Kwinana; Yakhe Kwinana2; John Tambi; Musa Zwane; Ruth Kibuuka
Subject: Fwd: SSA Request for information
Attachments: ATT00001.htm; ATT00002.htm; ATT00003.htm; ATT00004.htm; ATT00005.htm; ATT00006.htm; Letter to DG SSA.pdf; ATT00007.htm; Scanned from a Xerox Multifunction Device.pdf; ATT00008.htm

Please this report must be provided to the board urgently

Ms Dudu Myeni
 Phone :035 789 5499
 Email : dudumyeni@telkomsa.net

egin forwarded message:

From: Funi Madlala <FuniM@ssa.gov.za>
Date: 14 January 2016 at 2:41:49 PM SAST
To: "dudumyeni@telkomsa.net" <dudumyeni@telkomsa.net>
Cc: "Vincent V. Mnguni" <Vincent@ssa.gov.za>
Subject: FW: SSA Request for information

Dear Chairperson

Please find the communication from the office of the Acting GCEO. We have not received a response up to now.

Regards

Funokwakhe Madlala

From: Vincent V. Mnguni
Sent: 23 November 2015 02:25 PM
To: yolandabarron@flysaa.com
Cc: Funi Madlala
Subject: FW: SSA Request for information
Importance: High

Good afternoon Yolanda

After perusal of the responding letter from the office of the acting Group CEO dated 12 November 2015 Ref: L Action, we (State Security Agency) are not satisfied with the response from the AGCEO. Manager Security Investigations will like to meet with Acting Group CEO and Head of Employee Relations to discuss this matter with aim of reaching an amicable solution.

Please advise on convenient date and time for the proposed meeting.

Thanking you in advance and hoping to hear from you soon.

Regards



Vincent Mnguni
State Security Agency
Investigator (Foreign Mission Investigations)
Tel: 012 427 5687
Cell: 076 480 6150

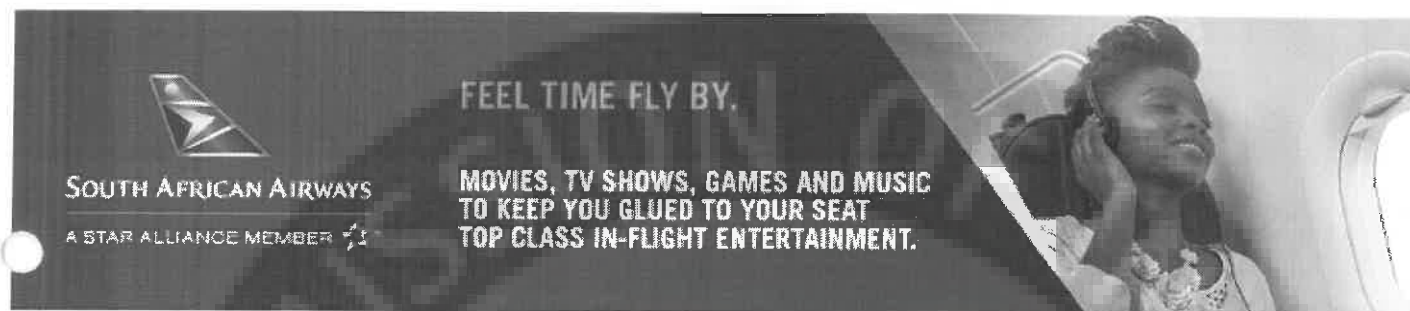
From: Yolanda Barron [YolandaBarron@flysaa.com]

Sent: 13 November 2015 08:39 AM

To: Vincent V. Mnguni

Cc: Funi Madlala; Leon Acton; Thuli Mpshe; Thembi Mngomezulu; Lourens Erasmus (Employee Relations)

Subject: RE: SSA Request for information



Annexure “TM39”



Andrew A. Keartland

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Sent: Wednesday, 21 October 2015 16:22
To: GROUP EXCO COMMITTEE; SAAManCo; Kim Thipe
Cc: Yolanda Barron; Lourens Erasmus (Employee Relations)
Subject: FW: Letter re vetting of Executives and support staff
Attachments: doc00014120151021144423.pdf

Dear Colleagues

Please note the trailing email from the Chair.

I request that each GM and subsidiary CEO compile the list and forward to Ruth for consolidation. Not clear of support staff and I suggest that it should be all levels 2 managers.

Thanks and regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

-----Original Message-----

From: Dudu Myeni [mailto:dudum@jacobzumafoundation.org.za]
Sent: 21 October 2015 03:03 PM
To: Thuli Mpshe; Ruth Kibuuka
Subject: Letter re vetting of Executives and support staff

Ms Dudu Myeni
 Executive Chairperson
 Phone: 035 789 5499
 Email: dudum@jacobzumafoundation.org.za

Begin forwarded message:

>
 >
 > -----
 > TASKalfa 266ci
 > [00:17:c8:08:95:0a]
 > -----

Disclaimer: The information in this e-mail is confidential and is legally privileged. It is intended solely for the addressee. If this e-mail is not intended for you, you cannot copy, distribute or disclose the included information to anyone and request that the mail be deleted. Any disclosure of confidential or privileged information transmitted herewith may result in legal proceedings being instituted against the recipient hereof. While all reasonable steps have been taken to ensure the accuracy and integrity of all data transmitted electronically, SAA does not accept liability if the data, for whatever reason, is corrupt or does not reach its intended destination. Please note that this e-mail and the contents thereof is subject to the standard SAA E-mail Disclaimer which may be found at



http://www.flysaa.com/za/en/policies_and_Disclaimers.action#Email .Should you not have access to the internet, send an e-mail to requestdisclaimer@flysaa.com and a copy will be sent to you.



A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is located in the bottom right corner of the page.



South African Airways
Chairperson
6th Floor
A Block, Airways Park
OR Tambo International Airport

Private Bag X 13
Kempton Park
1627

Tel: 27 11 978-2520
Email: Chairperson@flysaa.com

The Acting CEO
South African Airways SOC
OR Tambo Airport
Gauteng

Dear Acting CEO

RE: SECURITY VETTING OF THE SOUTH AFRICAN AIRWAYS EXECUTIVE MANAGEMENT AND SUPPORT STAFF

I would like to inform you that I am in receipt of correspondence from the Honourable Minister of State Security dated 13th October 2015, addressed to the Minister of Finance and copied to me as Chairperson of SAA.

The above mentioned letter relates to the security vetting of SAA's executive management and support staff. Subsequent to the receipt of the letter, I wrote to the Minister of Finance assuring him that SAA will cooperate with the SSA and will provide whatever assistance is required.

In view of the above, you are hereby requested to submit to or work with the Company Secretary to compile a list of all the SAA Executives and its subsidiaries for submission to the Department. In the letter it states that we should also submit the list of Support Staff.

Please ensure that all executives and support staff are informed about this process as per the directive from the Department.

Yours sincerely,

Ms. Duduzile Myeni
SAA Board of Directors Chairperson

Date: 2015/10/20

Directors

DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

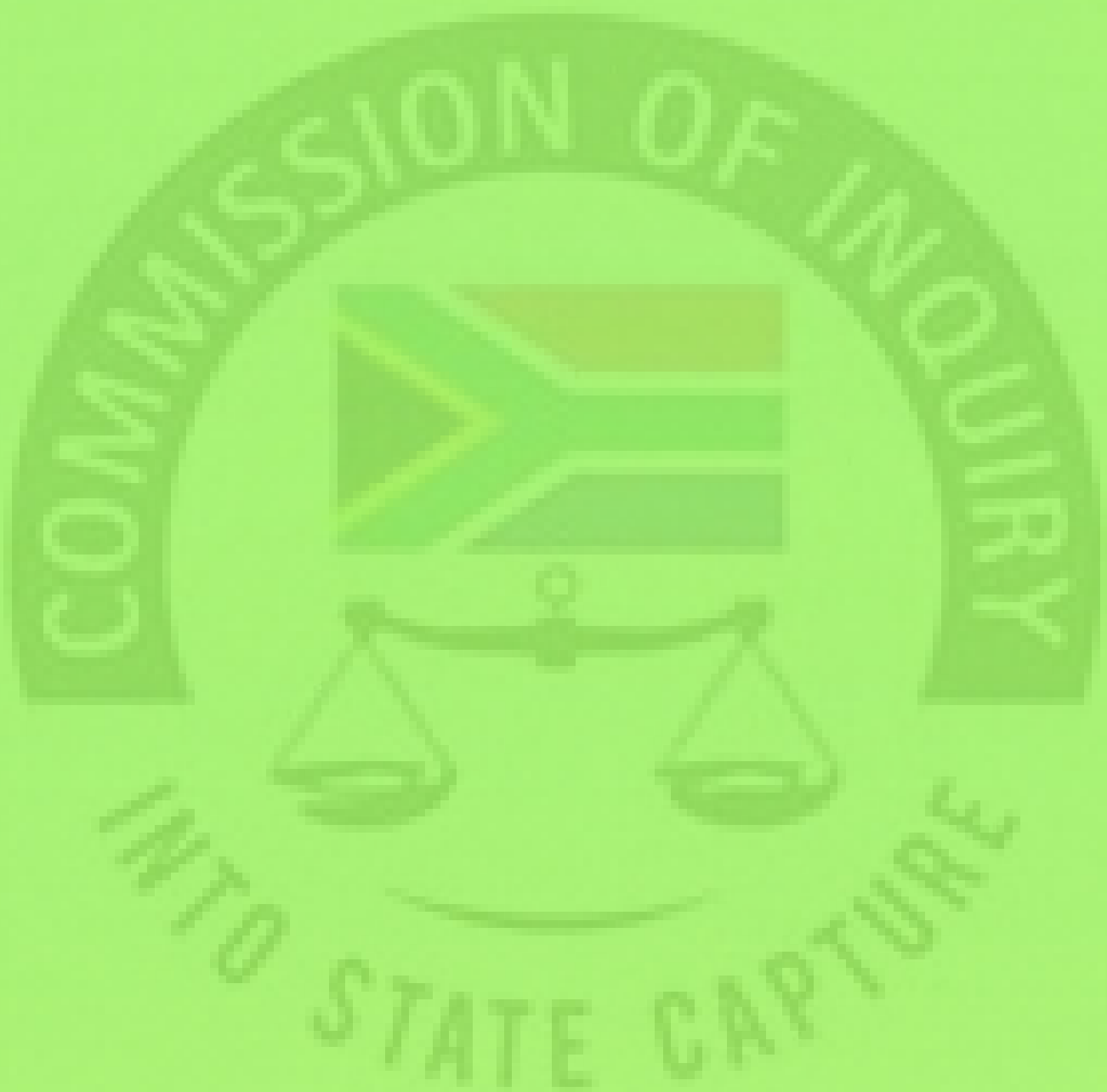
Company Secretary – Ruth Kibuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

Annexure “TM40”



CONFIDENTIAL



**MINISTER
STATE SECURITY
REPUBLIC OF SOUTH AFRICA**

P O Box 51279, Waterfront, 0002 CAPE TOWN, 1st Floor, 120 Main Street, Parliament, CAPE TOWN Tel: (021) 461-1800 Fax: (021) 461-4844
P O Box 1257, Market, 0097, PRETORIA, Rustenburg Building, Bopape, One Millenary Road & Loft Avenue, PRETORIA Tel: (012) 367-0700 Fax: (012) 367-0740
www.ssa.gov.za

MIN/M1/1/5/2

Mr NM Nene
Honourable Minister of Finance
Ministry of Finance
40 Church Square
Pretoria
0002

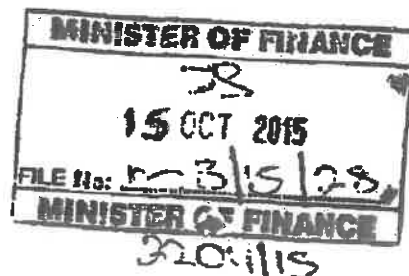
Copy: The Chairperson of the Board (SAA)

Dear Colleague,

**RE: SECURITY VETTING OF THE SOUTH AFRICAN AIRWAYS EXECUTIVE
MANAGEMENT AND SUPPORT STAFF.**

1. The above matter refers.
2. It has come to the attention of the State Security Agency that there is an urgent need for vetting and re-vetting of the State Owned Enterprises, given sensitive information received on an ongoing basis.
3. SOC's as government entities have a huge impact on the economy of the country and therefore extremely important for the SSA to conduct security vetting as per Section 1 of the National Strategic Intelligence Act (Act 39 of 1994) as amended by Act 67 of 2002 states that: "The National Intelligence Agency (NIA) has the mandate to vet all other National, Provincial and Local government department, parastatals and their service providers".


CONFIDENTIAL



CONFIDENTIAL

**RE: SECURITY VETTING OF THE SOUTH AFRICAN AIRWAYS EXECUTIVE
MANAGEMENT AND SUPPORT STAFF**

4. This should be understood from the background of challenges affecting most of the State Owned Companies.
6. The Chairperson (SAA) will be required to provide a list of all Executive Management and Support Staff.
7. An update will be provided on completion.
8. Yours Sincerely,



MR DAVID MARLOBO, MP
MINISTER OF STATE SECURITY

DATE: 13/10/2015

SECRET



Annexure “TM41”



2

Thuli Mpshe

From: Thuli Mpshe
Sent: 09 November 2015 12:37 PM
To: dudum@jacobzumafoundation.org.za
Cc: Ruth Kibuuka
Subject: FW: Request to Action
Attachments: Jacob Zuma Foundation-20151104141153.pdf

Dear Chair

I have tried to call you as promised. Please forward me the investigation report and the legal opinion so that we can start the process of formulating the charges..

I also need to know who the witnesses are and their availability. The timing of the disciplinary hearing is depended on the availability of the witnesses.

Thanks.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Thuli Mpshe
Sent: 04 November 2015 09:26 PM
To: dudum@jacobzumafoundation.org.za
Cc: Ruth Kibuuka
Subject: FW: Request to Action

Dear Chair

I acknowledge receipt of the attached correspondence. The contents there of are noted and will be actioned. Apologies that I have not signed the attached returned to you by 16hrs today 4th November 2015 as indicated in the attached, this will be done tomorrow morning. I had meetings external to Airways Park and have just started catching up with my emails. I will action as requested. Please provide me all the relevant information including the investigation report and recommendations to enable me to start with the first step of this disciplinary hearing being that of formulation of charges. We have a panel of law firms that assist us with presiding officers in specific cases where we request such; I will follow the due process of appointing such. Will provide an outline of key actions/activities with the relevant time lines to this effect.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Dudu Myeni [mailto:dudum@jacobzumafoundation.org.za]
Sent: 04 November 2015 02:50 PM
To: Thuli Mpshe
Cc: Ruth Kibuuka
Subject: Request to Action

Dear Acting CEO
Kindly receive attached.
Regards

Ms Dudu Myeni
Executive Chairperson
Phone: 035 789 5499
Email: dudum@jacobzumafoundation.org.za



A handwritten signature in black ink, appearing to be 'Ruth Kibuuka', is located at the bottom right of the page.

Thuli Mpshe

From: Thuli Mpshe
Sent: 05 November 2015 09:32 AM
To: dudum@jacobzumafoundation.org.za
Cc: Ruth Kibuuka
Subject: FW: Request to Action
Attachments: Jacob Zuma Foundation-20151104141153.pdf; Disciplinary Hearing of CFO - 20151105.pdf

Dear Chair

Please find the signed letter as per trailing email.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Dudu Myeni [mailto:dudum@jacobzumafoundation.org.za]
Sent: 04 November 2015 02:50 PM
To: Thuli Mpshe
Cc: Ruth Kibuuka
Subject: Request to Action

Dear Acting CEO
Kindly receive attached.
Regards

Ms Dudu Myeni
Executive Chairperson
Phone: 035 789 5499
Email: dudum@jacobzumafoundation.org.za



SOUTH AFRICAN AIRWAYS

South African Airways
Chairperson
6th Floor
A Block, Airways Park
OR Tambo International Airport

Private Bag X 13
Kempston Park
1627

Tel: 27 11 870-2520
Email: Chairperson@flysas.com

The Acting CEO
South African Airways SOC
Attention: Ms T. Mpshe
6th Floor A Block
Airways Park
OR Tambo Airport
1627
Per email

Dear Acting CEO

DISCIPLINARY HEARING FOR THE CHIEF FINANCIAL OFFICER

As you are aware, on the 03 July 2015 Mr. Wolf Meyer, when present at a scheduled meeting with me and Dr. Tambi had in his possession a recording device which was used to record part of the meeting. The circumstances of this was objected to by myself and the recording device which was undisclosed was removed from the meeting.

Following the incident, we obtained a legal opinion in order to establish the propriety of this action. The legal opinion from ENS advises that the matter is of such a nature that the Board could consider a disciplinary hearing to establish the facts and provide a finding on the matter.

This matter has been put before the Board, and the broad agreement is that an internal disciplinary hearing be held to determine whether Mr Meyer's actions constitute wrongdoing, and if so what the appropriate sanction would be.

As the Chief Financial Officer reports to you, I hereby request that you institute the internal disciplinary hearing as soon as possible in line with the company's policies and procedures.

It is further proposed that you engage ENS or any other suitable firm of attorneys to implement the hearing in an appropriate and fair manner. The Board will be available to support and provide you with any other assistance that may be required.

Directors

DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinnana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

Company Secretary – Ruth Kibuka

South African Airways SOC Ltd

Reg. No. 1957/022444/30

A STAR ALLIANCE MEMBER

I request that you advise me by 18:00 today 04 November 2015, on the process you are going to follow to implement this request, as well as the expected timelines.

If you are in agreement with the request outlined above, please sign in the space provided below and return the signed letter to me.

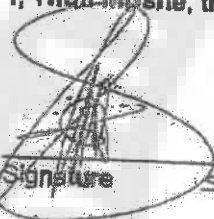
Yours sincerely,



Ms. Duduzile Myeni
SAA Board of Directors Chairperson

Date: 2015/11/04

I, Thuli Moshé, the undersigned, accept to carry out the request above.



Signature

5/11/15



Annexure “TM42”



MEMORANDUM OF UNDERSTANDING

between:

THE DEPARTMENT OF TRADE AND INDUSTRY

(hereinafter referred to as "the dti"),

herein represented by Mzwandile Masina in his capacity as the Deputy-Minister of the dti,
he being duly authorised thereto

and

SOUTH AFRICAN AIRWAYS (SOC) LTD

(Hereinafter referred to as "SAA"),

herein represented by Dudu Myeni in her capacity as the Chairperson of the SAA Board, she
being duly authorised thereto.

DCM
mc

1 RECORDAL

- 1.1 the dti is responsible for facilitating and promoting economic access to economic opportunities in South Africa.
- 1.2 the dti's key strategic objective is to facilitate broad-based and equitable economic participation of small and medium-sized business through targeted interventions and to provide grant funding to small businesses.
- 1.3 the dti aims to expand opportunities of South African businesses to participate in world markets.
- 1.4 SAA spends in excess of R10 billion annually on the procurement of goods and services. It's vision is to advance businesses owned by historically disadvantaged persons to become viable and sustainable players in the aviation sector.
- 1.5 SAA's intends to drive its transformation objectives by leveraging its procurement spend. To this end, SAA has developed its Transformation Policy which is aimed at the advancement of black economic empowerment.
- 1.6 SAA aims to promote and support the development of its suppliers through cooperation between the dti and SAA.

In furtherance of the above goals, the dti and SAA seek to regulate their respective roles and obligations as follows:

2 DEFINITIONS

- 2.1 In this MoU, unless the context otherwise indicates, the terms below shall bear the meaning as follows:
 - 2.1.1 "the dti" means the Department of Trade and Industry, a national department listed in Schedule 1 of the Public Service Act 103 of 1994;
 - 2.1.2 "confidential information" means information that a party has been identified in writing as confidential or is of such nature that it should be considered as confidential.



3
DCM
M/C

(i.e. the *ejusdem generis* rule) shall not apply, and whenever the word "including" is used followed by specific examples, such examples shall not be interpreted so as to limit the meaning of any word or term to the same genus or class as the examples given.

3.9 The rule of construction that an agreement shall be interpreted against the party responsible for drafting of preparation of the agreement shall not apply.

3.10 The expiration or termination of this MoU shall not affect the provisions which expressly provide to operate after any such expiration or termination, or which of necessity, must continue to have effect after such expiration or termination.

4 DURATION

This MoU shall come into force upon date of last signature hereof and shall be in effect for an indefinite period. It will however, be subject to periodic assessment by both parties and terminable in accordance with provisions of clause 7 below.

5 OBLIGATIONS OF THE PARTIES

5.1 The di's obligations are:

5.1.1 to provide training to SAA staff.

5.1.2 assist in the provision of funding to businesses owned by historically disadvantaged persons.

5.1.3 facilitate discussions with the Airports Company of South Africa (Pty) Ltd concerning licences to new participants.

5.1.4 assist SAA in its efforts to form partnerships with other government departments and state entities in relation to the implementation of transformation initiatives.

5.2 SAA's obligations are:

5.2.1 to develop a roll-out plan for selected goods and services.

DCM
mC

- 7.2 Within seven (7) days of termination, each party shall return all property and materials in its possession that is confidential information of the other party. Where such information is stored in electronic format, the party shall procure that all such material is deleted within seven (7) days of termination.

8 GOOD FAITH

The parties undertake to perform their obligations in terms of this MoU lawfully and with due diligence, efficiency and in good faith.

9 DISPUTES RESOLUTION

- 9.1 Should a dispute arise between the parties pursuant to this MoU, the parties shall use their best efforts to resolve the matter through their designated representatives referred to in clause 15.1 below.

- 9.2 If such dispute cannot be resolved in terms of clause 9.1, the dispute shall be referred to the Minister of Public Enterprises and the Minister of Trade and Industry or their duly authorised delegates for final resolution.

- 9.3 This clause is severable from the remainder of this MoU and shall survive the termination of this MoU.

10 CONFIDENTIALITY UNDERTAKING

- 10.1 The parties acknowledge that in the performance of this MoU, either party may make available and/or disclose to the other, information that is confidential.

- 10.2 Each party agrees to maintain such information as confidential, except to the extent the disclosure of such information is required by applicable law, or is required to be disclosed by order of the court, or to the extent such information is in the public domain.

- 10.3 Either party may disclose confidential information to their advisors, subject to the prior confidential undertaking in writing of the advisor.

- 10.4 No party shall issue any media statement regarding the subject matter of this MOU except with the prior written consent of the other party. This provision shall



DEM
MC

Contact person/s: Mashudu Mannde / Janeez Hafizulla
Email: MMannde@thedti.gov.za
JHafizulla@thedti.gov.za
Address: 77 Meintjies Street, Sunnyside, Pretoria, 0001
Postal Address: Private Bag X84, Pretoria, 0001
Telephone No: (012) 012 394 3568 / 012 394 1627

15.1.2 SAA –

Contact person/s:
Email:
Address:
Postal Address:
Telephone:

15.2 Any notice given by a party to the other will be deemed to be received by the addressee:

15.2.1 on the date on which it is delivered to the addressee's address if delivered by hand; or

15.2.2 on the seventh (7th) day after the date of posting if sent by pre-paid registered post to the addressee's address; or

15.2.3 if on the date of transmission if it is transmitted by electronic mail.

15.3 A party may change its domicilium address at any time by notice in writing to the other party, such a change of address being effective seven (7) days after receipt by the addressee of such written notice.

The parties hereby, having read the contents which are acknowledged and understood, accept the terms by signing this MoU.

[SIGNATURE PAGE TO FOLLOW]

DCM
m c



Annexure “TM43”



Attention: Ms. Yakhe Khinana
 Non-Executive Director
 South African Airways
 Jones Road
 Airways Park
 Johannesburg



THE BIDVEST GROUP LIMITED
 Bidvest House
 18 Crescent Drive
 Melrose Arch
 Melrose
 Johannesburg, 2196
 South Africa

30 June 2015

Dear Ms. Khinana

Telephone: +27 (0) 11 772 8700
 Facsimile: +27 (0) 11 772 8970
 Email: info@bidvest.co.za
www.bidvest.com

RE: SAA TRANSFORMATION REQUIREMENT

The meeting held on 23 June 2015 with the BidAir Services management team refers.

SAA's request for the transfer of 30% of BidAir Service's SAA grooming, toilet and water contract to a SAA nominated black owned small business is noted. As indicated in your meeting with Kobus, Blake and Bushy, BidAir Services is a 100% owned subsidiary of Bidvest Ltd. A decision that has a change of ownership and shareholding implication can therefore only be made by Bidvest Ltd. We request that the proposed changes required by SAA be formalised and communicated in writing for due consideration.

We further request your advice and guidance on how the following requirements will be addressed in order to facilitate the proposed changes:

1. SAA Transformation Requirement

BidAir Services is currently 63.42% black owned (economic interest) and 24.85% black women owned. This request for the transfer of 30% of the contract to a black owned small business would result in the grooming, toilet and water contract being run a company with an effective 74.39% black shareholding. Does this imply that SAA's supplier black ownership requirement is now closer to 75%? Is the transfer of 30% of the contract to a SAA nominated black owned small business a pre-requisite for the upcoming tender?

2. Company Structure

BidAir Services provides grooming, toilet and water services to other carriers outside of SAA, therefore, in order to implement the proposed request, a new company (NewCo) would have to be formed to tender for the contract. Kindly advise who SAA intends on nominating for the 30% shareholding.

Registration number: 1946/021180/06

3. License Requirements

NewCo would be the main bidder for the tender, however, NewCo does not have a license. Whilst the one shareholder (BidAir Services) would be a license holder, this license is not transferable to the new bidder, NewCo. How would this license requirement for NewCo be resolved?

4. Capex Requirements

The current SAA license requirements state that new equipment must be utilised by company's awarded contracts for the first time. This implies that BidAir Service's current equipment cannot be transferred to NewCo. We anticipate the capex costs for the new contract to be approximately R20million. Kindly advise whether the nominated small business will be in a position to fund this capital requirement.

5. Tenure

The norm for the depreciation of the capex required for a grooming, toilet and water contract is 10years. The contract term as we understand will be 3years. This short period will not enable depreciation of the capex over the required longer term and will therefore impact NewCo's ability to submit a cost effective pricing model for the tender. Could you advise how this challenge could possibly be addressed?

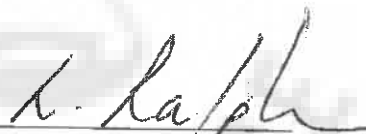
We will await SAA's formal written request and responses to some of the practical considerations that would need to be addressed in order to effect the proposed transformation requirement.

I trust you will find the above in order.

Regards



MPUMI MADISA
EXECUTIVE DIRECTOR
BIDVEST GROUP LTD



LINDSAY RALPHS
CHIEF EXECUTIVE
BIDVEST SOUTH AFRICA



Annexure “TM44”





the dti

Department
Trade and Industry
REPUBLIC OF SOUTH AFRICA

"A"

Private Bag X84, PRETORIA, 0001; the dti Campus: 77 Meinljes Street, Sunnyside, 0002; Tel: (012) 394 0000
the dti Customer Contact Centre local: 0861 843 384 International: +27 12 394 9500; www.thedti.gov.za

OFFICE OF THE B-BBEE COMMISSIONER

Enquiries: M. Ramare
Email: MRamare@thedti.gov.za
Telephone: +27 (12) 394 1535

Ms Thuli Mpshe
Acting Chief Executive Officer
South African Airways
Private Bag X13
Kempton Park
1627

Dear Ms. Mpshe

CONFIRMATION OF THE ALLEGED DEMAND BY SAA FOR BIDVEST TO GIVE 30% OF THE CONTRACT TO A NOMINATED COMPANY

1. We refer to the meeting held between ourselves yesterday on 8th September 2015 at your offices in Airways Park, Kempton Park, at 14:00.
2. At this meeting, we requested SAA to confirm if the allegations in the media relating to the demand on Bidvest to give 30% of the contract with SAA to a company to be nominated by SAA are valid. This follows a referral by the Minister of Trade and Industry of a concern received from the Member of Parliament, Adv. Anton Alberts, of the Freedom Front Plus, to the Acting B-BBEE Commissioner in a letter dated 01 September 2015.

Yours faithfully,

3. During the meeting SAA confirmed that there is a process to implement a 30% set aside to advance transformation, and that this is a process driven through the Board of SAA. Dr Simba Dahwa confirmed having participated in meetings where suppliers were engaged on this 30% set aside. Bidvest was confirmed as one of the suppliers that were engaged by SAA in this regard. SAA confirmed that it is in the process of finalizing its transformation targets for adoption by the board, which will include the 30% set aside initiative.
4. It was confirmed during the meeting that SAA falls within the Integrated Transport Sector Code, and will be required to implement the B-BBEE targets as set in the Sector Code, which is in the process of being aligned to the generic codes. SAA confirmed being part of this Sector Code process and that it has provided its input through AASA, the industry association.
5. As an organ of state and public entity, SAA is required to apply any relevant code of good practice issued in terms of the B-BBEE Act, which refers to the generic codes issued by the Minister or the sector code as approved and gazette by the Minister. Any deviation or exemption on the part of SAA must be facilitated through the Sector Code that SAA falls within, or through section 9(6) of the B-BBEE Act, as amended, if particular objectively verifiable facts or circumstances applicable necessitate the exemption or deviation.
6. Therefore, as SAA confirmed that the deviation or exemption referred to in paragraph 5 above has not been granted in line with the framework of the B-BBEE Act, as amended, SAA is not in a position to legally proceed with



the implementation of the 30% set aside in the manner proposed until the requirements articulated in Paragraph 5 above have been complied with.

7. In view of the above, we conclude that even though SAA's conduct may have been in good faith, it is not aligned to the B-BBEE Act and the Codes, and therefore SAA should not proceed to implement the 30% set aside until approval is applied for and obtained from the competent authority, in this case the Minister of Trade and Industry. SAA confirmed that this 30% initiative does not conform to the B-BBEE Act and Codes and undertook to follow proper process and obtain applicable authorisation before implementing the initiative.
8. We confirm that SAA further agreed that it would provide us with a written correspondence that outlines the 30% set aside initiative that was initiated and communicated with suppliers for our record, which will enable us to properly close the matter on our part. Although SAA stated that it couldn't commit to a timeline in this meeting, as it needed to first engage with the Board of SAA prior to submitting the written correspondence, we will appreciate if this written correspondence can be provided to us by **Friday, 18 September 2015**.
9. Having said the above, we request SAA to send us written confirmation that it will not proceed to implement the 30% set aside initiative until it has applied for and received the authorization to do so in terms of the B-BBEE Act, as amended, as agreed in the meeting. We will appreciate if the Acting CEO or SAA duly authorized person can send us this written confirmation by **Friday, 11 September 2015**.

Not for Public Release



10. We also confirm our emphasis that transparency and consistency in the application of the B-BBEE Act and Codes is critical in ensuring that the objectives of the B-BBEE Act are effectively achieved. Therefore, it is important that all entities required to apply the B-BBEE Act and the Codes do so within the framework set by the B-BBEE Act, as amended.
11. We trust that you will find the above in order and we look forward to working with your entity by advising on matters of compliance to advance economic transformation within the spirit of the B-BBEE Act, as amended.
12. We thank you for your cooperation.

Yours sincerely,



MS ZODWA NTULI
ACTING B-BBEE COMMISSIONER
09/09/15

Signature of recipient



Annexure “TM45”



"B"

Madidimalo Ramare - FW: SAA Letter on Bidvest Matter

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
To: "zntuli@thedti.gov.za" <zntuli@thedti.gov.za>
Date: 2015/09/11 2:52 PM
Subject: FW: SAA Letter on Bidvest Matter
Cc: "FNotoane@thedti.gov.za" <FNotoane@thedti.gov.za>, Masimba Duhwa <Masimb...
Attachments: document2015-09-10-135055_1.pdf



Dear Commissioner

Trust you are well. Following our meeting and the attached correspondence we have apprised the board on this matter.

The board has requested that your office contact them directly in this regard.

The email address is chairperson@flysaa.com

Thank you and kind regards,

Thuli Mpshe | Acting Group CEO

Phone: +2711 978 2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block Airways Park, OR Tambo International Airport, Johannesburg, SOUTH AFRICA

From: Francina Notoane [FNotoane@thedti.gov.za]
Sent: 10 September 2015 01:28 PM
To: Yolanda Barron
Subject: Fwd: SAA Letter on Bidvest Matter

Thanks to the dti's support to the manufacturing sector:



Dear Acting CEO,

Kindly find attached signed letter that captured the meeting that was held on 8th September 2015.

Hope you will find this in order.

Kind regards,

Francina Notoane

Handwritten signature and initials.



the dti
Department of Trade and Industry
REPUBLIC OF SOUTH AFRICA

"C"

Private Bag X64, PRETORIA, 0001, the dti Campus, 77 Mentles Street, Sunnyside, 0002 Tel: (012) 354 0000
the dti Customer Contact Centre local, 0861 543 354 International: +27 12 354 9500; www.thedti.gov.za

OFFICE OF THE B-BBEE COMMISSIONER

Edgeline M. Rindlap
Email: Edgeline.M.Rindlap@dti.gov.za
Telephone: +27 (12) 394 1535

Ms Dudu Myeni
Chairperson of the Board
South African Airways
Private Bag X13
Kempton Park
1627

Dear Ms. Myeni

CONFIRMATION OF THE ALLEGED DEMAND BY SAA FOR BIDVEST TO GIVE 30% OF THE CONTRACT TO A NOMINATED COMPANY

1. We refer to the meeting held between us and the SAA Acting CEO, Ms Thuli Mpshe on 8th September 2015 at your offices in Airways Park, Kempton Park, at 14:00 on the above matter, followed by a letter confirming the discussions which was sent on 9th September 2015 as attached hereto for ease of reference.
2. On Friday, 11 September 2015, we received an email correspondence from Ms Thuli Mpshe indicating that the Board of SAA requests that we correspond directly with the Board.

Yours faithfully, *Edgeline M. Rindlap*

[Handwritten signature]
[Handwritten initials]

3. We reiterate all the contents of the letter sent to SAA on 9th September 2015, and advise that the 30% set aside initiative that SAA is in the process of implementing, to the extent that it was explained to us in the meeting with SAA, is in our view not in line with the B-BBEE Act and the Codes of Good Practice.
4. As an organ of state and public entity, SAA is required to apply any relevant Code of Good Practice issued in terms of the B-BBEE Act, which refers to the *generic codes* issued by the Minister of Trade and Industry or the *sector code* as approved and gazette by the Minister of Trade and Industry. Any organ of state or public entity may deviate or be exempted through section 9(6) of the B-BBEE Act, as amended, if particular objectively verifiable facts or circumstances applicable necessitate the exemption or deviation.
5. SAA confirmed that the deviation or exemption referred to in paragraph 4 above has not been granted in line with the framework of the B-BBEE Act, as amended, and therefore, it is our view that SAA is not in a position to legally proceed with the implementation of the 30% set aside in the manner proposed.
6. We have also consulted with the Department of Trade and Industry and they have confirmed that based on their record, SAA has not been granted a deviation or an exemption from the Codes of Good Practice within the framework of the B-BBEE Act, as amended.
7. It is our view therefore that even though SAA's conduct may be in good faith, it is not aligned to the B-BBEE Act and the Codes of Good Practice, and therefore SAA should not proceed to implement the 30% set aside until




approval is applied for and obtained from the competent authority, in this case the Minister of Trade and Industry.

8. Having said the above, we request SAA to send us written confirmation that it will not proceed to implement the 30% set aside initiative until it has applied for and received the authorization to do so in terms of the B-BBEE Act, as amended, as agreed in the meeting. We will appreciate if the person duly authorized person at SAA can send us this written confirmation by **Friday, 18 September 2015**.
9. Should SAA be of the view that its 30% set aside initiative is in line with the B-BBEE Act, as amended, and the Codes of Good Practice, we will appreciate if SAA can provide this view in writing to us, with reasons, to enable us to determine a way forward on this matter.
10. We remain available to clarify or provide advice on this matter to the board of SAA, where necessary.

We trust that you will find the above in order.

Yours sincerely,



MS ZODWA NTULI
ACTING B-BBEE COMMISSIONER
13/09/15

Not for Public Use



Annexure “TM46”





national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001
Enquiries: Vukani Ndaba Tel: (012) 315 5070 Fax: (012) 326 5445 Email: vukani.ndaba@treasury.gov.za

Ref: 43/12/5/1

Ms T. Mpshe
Acting Chief Executive Officer
South African Airways
Private Bag X13
KEMPTON PARK
1627

Dear Ms Mpshe

SOUTH AFRICAN AIRWAYS NOMINATED BLACK SMALL BUSINESS FOR GROOMING, TOILET AND WATER SERVICE CONTRACT

I refer to your letter dated 23 September 2015.

Your letter indicates that currently all procurement decisions are made within the framework of the Supply Chain Management Policy and that the Board resolved to set aside 30% of key procurement transactions for black owned businesses.

Decisions that are taken by the Board to encourage transformation in procurement are commendable, however, the SAA Board must not operate outside the procurement legal framework.

The resolution of the Board to set aside the 30% in its current form is not supported by any procurement legal framework and must be stopped with immediate effect.

You are kindly requested to advise the Board not to take procurement decisions that brings the name of SAA and National Treasury into disrepute.

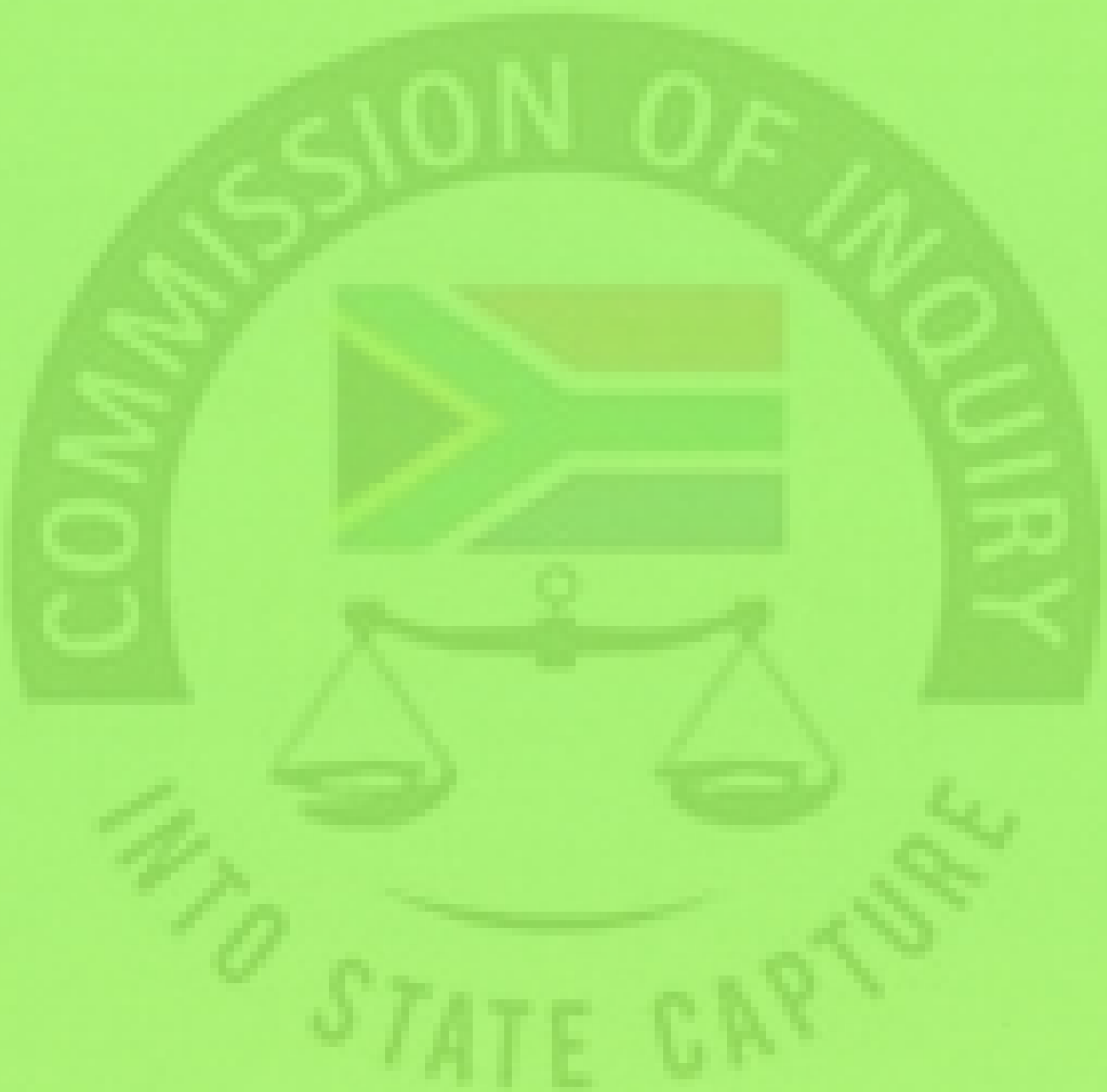
Kindly update me on the development around the 30% set aside of key procurement transactions.

Kind regards,

KENNETH BROWN
CHIEF PROCUREMENT OFFICER

DATE: 28/9/2015

Annexure “TM47”





national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria 0001

Enquiries: Vukani Ndaba Tel: (012) 315 5070 Fax: (012) 326 5445 Email: vukani.ndaba@treasury.gov.za

Ref: 43/1/2/5/1

Ms. D Myeni
Chairperson of the Board
South African Airways
Private Bag X13
KEMPTON PARK
1627

Dear Ms Myeni

SAA PROMOTION OF GOVERNMENT DEVELOPMENTAL PROGRAMME FOR SMALL MEDIUM ENTERPRISES (SMMEs) AND CO-OPERATIVES

I refer to your letter dated 7 October 2015.

Your letter requests that I consider in good faith and at an intergovernmental relations level your submissions, suggestions and requests made regarding transformation policy of setting aside 30% and where appropriate, provide guidance on the implementation thereof.

There is no dispute that section 217(2) of the Constitution (Act 108 of 1996) allows an organ of state or institution to implement a procurement policy providing for categories of preference in the allocation of contracts; and the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination. However, there must be a national legislation that prescribes a framework within such a policy may be implemented, which currently does not exist.

It is true that the Nine-point Plan announced during the February 2015 State of the Nation Address (SONA) was endorsed by Cabinet Lekgotla. It is also true that the Economic Cluster is tasked with monitoring the implementation of the plan to unlock the potential of SMME, co-operatives as well as township and rural enterprises. However, the pre requisite is the issuing of practice notes to all spheres of government to implement the set asides programme by National Treasury, which have not been issued.

Taking into account the above, the resolution of the Board to set aside the 30% is not supported by any national legislation or instructions issued by National Treasury.

I trust that you will find the above in order and looking forward to further engagement with the Board.

Kind regards,

KENNETH BROWN
CHIEF PROCUREMENT OFFICER

DATE: 9/10/2015

Annexure “TM48”



Andrew A. Keartland

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Sent: Thursday, 24 September 2015 12:15
To: Duduzile Myeni; Dudu Myeni; Yakhe Kwinana2; Yakhe Kwinana; Tony Dixon (tonydixon@telkomsa.net) (tonydixon@telkomsa.net); John Tambi (johnt@nepad.org); Wolf Meyer
Cc: Ruth Kibuuka
Subject: FW: Letter to SAA
Attachments: Scanned from a Xerox Multifunction Device (17).pdf; Response letter to Mr Brown from NT.PDF

Dear Board Members

Please note the attached response to National Treasury in respect of Transformation policy and procurement.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Thuli Mpshe
Sent: 23 September 2015 04:56 PM
To: 'vukani.ndaba@treasury.gov.za'
Cc: Masimba Dahwa; Ravesh Rajlal (Ravesh.Rajlal@treasury.gov.za); Yolanda Barron; Lusanda Jiya
Subject: FW: Letter to SAA

Dear Vukani

Please find our response as per the trailing email.

Sincere apologies for not responding yesterday as requested.

Please feel free to contact us in this regard.

Regards.

Thuli Mpshe | Acting Group CEO

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Vukani Ndaba [mailto:Vukani.Ndaba@treasury.gov.za]
Sent: 17 September 2015 02:21 PM
To: Thuli Mpshe



Cc: Masimba Dahwa; yolandabaron@flysaa.com; Ravesh Rajlal
Subject: Letter to SAA

Dear Ms Mpshe,

Please find attached letter for your attention.

Kindly acknowledge receipt.

Kind Regards
Vukani

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http://www.treasury.gov.za/Email_Disclaimer.html



A handwritten signature in black ink, located in the bottom right corner of the page.

A small, handwritten mark or signature in black ink, located below the main signature in the bottom right corner.



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001
Enquiries: Vukani Ndaba Tel: (012) 315 5070 Fax: (012) 326 5445 Email: vukani.ndaba@treasury.gov.za

Ref: 43/1/2/5/1

Ms T Mpshe
Acting Chief Executive Officer
South African Airways
Private Bag X13
KEMPTON PARK
1627

Dear Ms Mpshe

SOUTH AFRICAN AIRWAYS NOMINATED BLACK SMALL BUSINESS FOR GROOMING, TOILET AND WATER SERVICE CONTRACT

The Office of the Chief Procurement Officer noted that South African Airways requested Bidvest to allocate 30% of the above contract to a nominated black empowered company.

It is not clear which policy is being used by the South African Airways to implement its transformation strategy and whether the policy is in-line with the existing procurement legislation.

You are kindly requested to submit the transformation policy and further explain what measures are put in place to ensure that a nominated black empowerment company is selected in a fair and transparent manner.

You are kindly requested to submit the required document and explanation by not later than 22 September 2015.

Do not hesitate contact my office if you need further clarification.

KENNETH BROWN
CHIEF PROCUREMENT OFFICER

DATE: 17/9/2015



SOUTH AFRICAN AIRWAYS

South African Airways
Acting CEO Office
6th Floor
A Block, Airways Park
OR Tambo International Airport

Private Bag X 13
Kempton Park
1627

Tel: 27 11 978-2525
Email: CEO@flysaa.com

23 September 2015

Mr. K Brown

Chief Procurement Officer
Department of National Treasury
Pretoria

E-mail: Vukani.ndaba@treasury.gov.za

RE: South African Airways nominated black small business for grooming, toilet and water service contract.

Dear Mr Brown,

We refer to your letter dated 17 September 2015 to me. Please accept my humble apologies for the delay in a response to you.

SAA has a draft Transformation Policy that is not yet being implemented as it has to be signed off by the relevant governance structures at SAA. Currently all procurement decisions are made within the framework of the Supply Chain Management Policy (SCM Policy) this policy ensures a fair and competitive procurement.

The basis for the proposed 30% set aside in order to expedite transformation and contribute towards BEE growth, is a decision in which the Board resolved to set aside 30% of key procurement transactions for black owned South African businesses focusing on women, the youth and military veterans.

As a state owned company, SAA is mindful and seeks to ensure full compliance with applicable laws and within its regulatory framework.

Directors

DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER 

SAA also seeks to contribute towards opening up areas of the South African economy where there is limited participation by black South Africans.

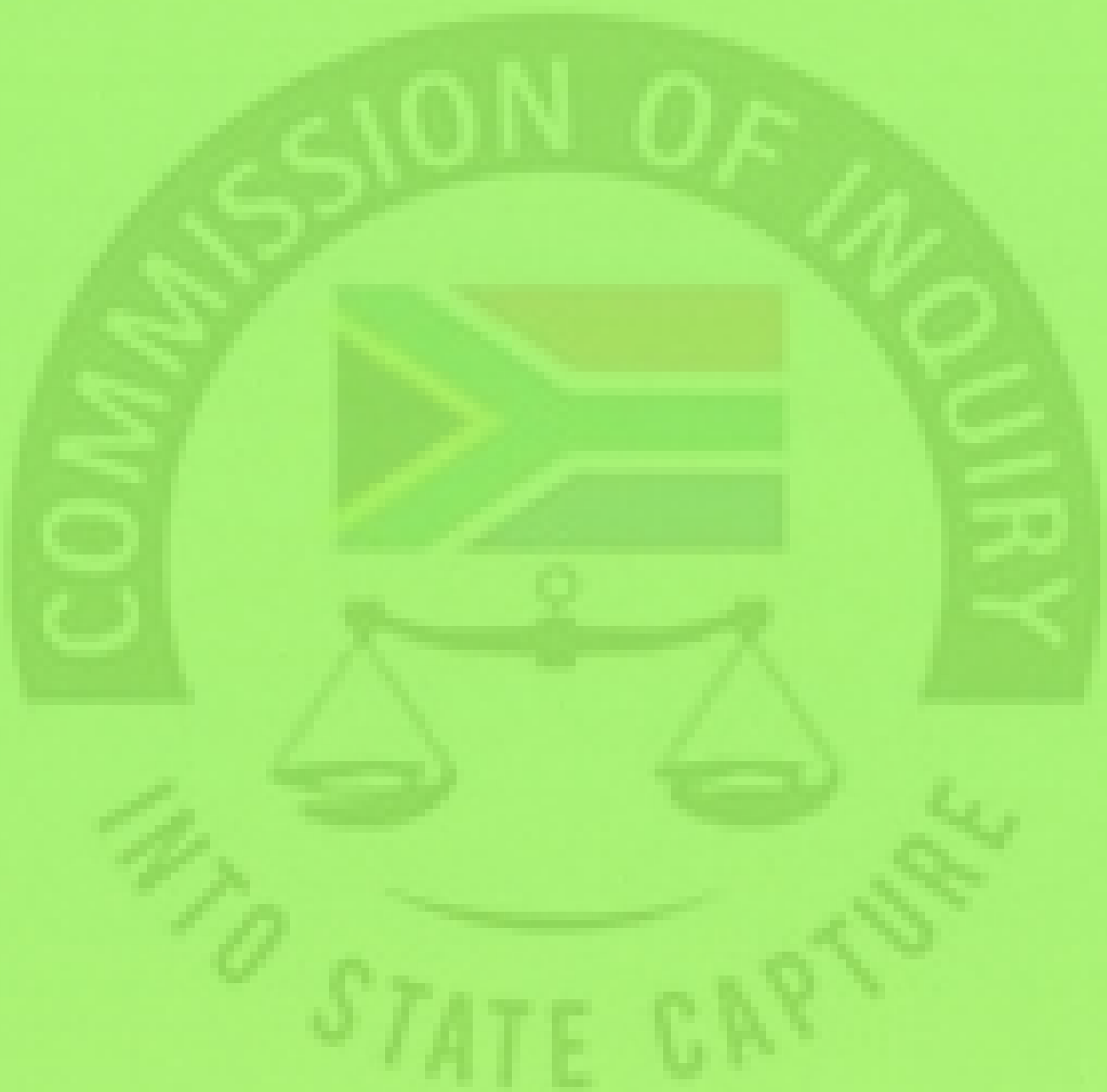
Yours sincerely,



Thuli Mpshe
Acting CEO: South African Airways



Annexure “TM49”



Andrew A. Keartland

From: Francina Notoane <FNotoane@beecommission.gov.za>
Sent: Tuesday, 12 March 2019 15:25
To: Andrew A. Keartland
Subject: Response to State Capture
Attachments: Annexure A.pdf; Annexure B.pdf; Annexure C.pdf; Annexure D.pdf; Annexure E.pdf; Annexure F.pdf; Letter to Mr. Keartland.pdf

Good day

Please find the response letter and annexures as per request.

On behalf B-BBEE Commissioner Ms. Z. Ntuli

Kind Regards,

Ms. Francina Notoane

Office of The Commissioner

Broad-Based Black Economic Empowerment (B-BBEE) Commission

Telephone: +27 (12) 649 0922

Email: FNotoane@beecommission.gov.za

Website: www.bbbeeecommission.co.za

420 Wiltch-Hazel Avenue, Eco Glades 2, Block C, Eco Park, Centurion, 0144

Private Bag X84, Pretoria, 0001

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the dti Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng, 0002
 Tel: +27 (12) 394 1535 Fax: +27 (12) 394 2535
 Private Bag X84, Pretoria, Gauteng, 0001
 Email: RamareM@beecommission.gov.za



Mr Andrew Keartland
 Commission of Inquiry into State Capture
 Hillside House, 3rd Floor
 17 Empire Road
 Parktown
 2193

Per Email: AndrewK@commissionsc.org.za

Dear Mr Keartland,

REQUEST FOR CORRESPONDENCE RELATING TO THE COMPLAINT REGARDING THE ALLEGED DEMAND BY SAA FOR BIDVEST TO GIVE 30% OF THE CONTRACT TO A NOMINATED COMPANY

1. Your email of today, 12 March 2019, requesting correspondence relating to the above-captioned matter as contained in the letter dated 13 September 2015 addressed to Ms Dudu Myeni of South African Airways, refers.
2. By way of background, please be advised that the intervention of the B-BBEE Commission in the matter was triggered by a complaint submitted by Adv. Anton Alberts, a Member of Parliament representing Freedom Front Plus, which was referred to the B-BBEE Commission by the Minister of Trade and Industry, Dr Rob Davies, on 1 September 2015.
3. At the time of receiving the complaint, the B-BBEE Commission did not have a formal process of handling complaints, although the powers to receive and investigate complaints are articulated in section 13F (1) (c)-(d) of the B-BBEE Act, as amended. The regulations that prescribe the process for complaints were subsequently issued by the Minister of Trade and Industry on 6 June 2016.

A handwritten signature in black ink, appearing to be a stylized 'AM' or similar initials, located at the bottom right of the page.

4. Upon receipt of the complaint, we requested a meeting with South African Airways, which meeting request was accepted and scheduled for 8 September 2015. The discussions of the meeting were captured by way of summary in our letter dated 9 September 2015 addressed to the Acting Chief Executive Officer, Ms Thuli Mpshe (see *Annexure A*).
5. An email was received from Acting Chief Executive Officer, Ms Thuli Mpshe, on 11 September 2015 stating that the Board of South African Airways requested that the B-BBEE Commission communicates directly with it through the email address chairperson@flysaa.com (see *Annexure B*). We thus issued a letter dated 13 September 2015 addressed to Ms Dudu Myeni, the Chairperson of the Board, attaching the letter dated 9 September 2015, to which we did not receive a written response from the Board (see *Annexure C*).
6. After several follow-ups on a written response to the B-BBEE Commission's letter of 9 September 2015 and 13 September 2015, we received an email on 8 October 2015 from the Chairperson of the Audit and Risk Committee of South African Airways, Ms Yakhe Kwinana, attaching a letter dated 7 October 2015 addressed to National Treasury, which letter was not relevant to us (see *Annexure D*). On the same day we responded by email and stated that we still required a response to our letters for our assessment to enable us to close on the matter, which response was never received (see *Annexure E*).
7. Despite not receiving a written response as requested from South African Airways, we conducted our assessment on the matter based on the information obtained through the meeting we held with South African Airways on 8 September 2015 and the information available publicly regarding the alleged demand by South African Airways for Bidvest to award 30% of the contract to a nominated company and concluded that such a practice, although initiated and discussed within South African Airways, had not yet been implemented.
8. Having considered the matter, albeit the lack of written confirmation from South African Airways that it will not implement the initiative without obtaining applicable authorisation, we were of the view that the matter can be closed, subject to monitoring to detect if South African Airways would implement the initiative without the relevant approvals, in which case the relevant provisions of the B-BBEE Act would be invoked to investigate the matter.



9. We thereafter issued a letter to the complainant, Adv. Anton Alberts, dated 3 February 2016 regarding the outcome of our assessment (*see Annexure F*). To date we have not received any complaint from any person or a follow-up from Adv. Anton Alberts indicating that such an alleged initiative by South African Airways had been or is currently being implemented contrary to the requirements of the B-BBEE Act.
10. It must be noted also that whereas we did not receive any written response from the Board of South Africa Airways regarding our letters on the matter, the Acting Chief Executive Officer, Ms Thuli Mpshe and her team, provided the B-BBEE Commission with full cooperation in sharing information about the proposed initiative, its purpose and the status of it at the time of our engagement, which enabled us to arrive at a conclusion.
11. Having said the above, we trust that this information, including the attached correspondence, will assist your office to understand the context and the extent of our intervention in respect of this matter. We will be available for a meeting to discuss the matter further, if necessary, to assist the Commission of Inquiry into State Capture to achieve its mandate.
12. Please do not hesitate to contact us for any queries in this regard by email at mramare@beecommission.gov.za or by telephone at +27 12 640 0918.

Yours sincerely



Ms Zodwa Ntuli
Commissioner
12 / March 2019



Andrew A. Keartland

From: Francina Notoane <FNotoane@beecommission.gov.za>
Sent: Monday, 25 March 2019 12:11
To: Andrew A. Keartland
Cc: Nhlakanipho N. Kunene
Subject: Re: FW: Response to State Capture

Dear Mr Keartland,

Thank you for the question.

Kindly note that section 10 of the B-BBEE Act makes it mandatory for organs of state to apply the applicable Codes of Good Practice, and proceeding without a deviation of exemption granted by the Minister of Trade and Industry would be non-compliance. However, the B-BBEE Act does not create a specific offence in respect of this conduct.

However, the B-BBEE Commission has powers to make recommendations in regard to a matter that it has investigated, which could include cancellation of the contracts awarded and disciplinary steps against officials involved in the process to award such a contract contrary to the B-BBEE Act.

It is our view that failing to adhere to section 10 of the B-BBEE Act does undermine or frustrate the achievement of the objectives of the B-BBEE Act, which is an offence under section 13O (1) (d) of the B-BBEE Act, but we have not pursued this argument yet. The B-BBEE Commission will be seeking a legal opinion on the matter relating to organs of state that do not adhere to section 10 of the B-BBEE Act for guidance.

We have also since written to Portfolio Committee on Trade and Industry to hold the organs of state accountable, and further engaged the Auditor General, who will be including B-BBEE as part of the audit scope. These are additional efforts to strengthen accountability and compliance by the state and its entities.

We trust you will find the above in order.

On behalf of B-BBEE Commissioner: Ms. Z Ntuli

Kind Regards,



Ms. Francina Notoane

Office of The Commissioner

Broad-Based Black Economic Empowerment (B-BBEE) Commission

Telephone: +27 (12) 649 0922

Email: FNotoane@beecommission.gov.za

Website: www.bbbeeecommission.co.za

420 Witch-Hazel Avenue, Eco Glades 2, Block C, Eco Park, Centurion, 0144

Private Bag X84, Pretoria, 0001

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>>> "Andrew A. Kearthland" <AndrewK@commissionsc.org.za> 3/20/2019 9:16 AM >>>

Morning Ms Notoane

Please see below email, where the question was raised regarding whether SAA continued, and awarded any contract (I see Ms Ntuli's letter at paragraph 8 makes reference), is this a contravention of the Act? If so, please elaborate.

Regards

Andrew Kearthland

COMMISSION OF INQUIRY INTO STATE CAPTURE | Hillside House, 3rd Floor, 17 Empire Road, Parktown, Johannesburg, 2193 | Gauteng | South Africa |

mobile: +27 (0) 60 769 9048 | email: andrewk@commissionsc.org.za | www.sastatecapture.org.za



From: Andrew A. Kearthland

Sent: Thursday, 14 March 2019 07:40

To: 'Francina Notoane' <FNotoane@beecommission.gov.za>

Subject: RE: Response to State Capture

Good morning Ms Notoane

Many thanks to the Commissioner, and yourself for the information received, it is very helpful.

I will pass it on to the team and the evidence leader for Aviation, and if there are any queries, I will revert back to you. At this stage, I do not see a need for any meeting.

May I ask one question: If SAA continued, and awarded any contract, by tender or by deviated contract extension (as was alluded to in this complaint), outside of the B-BBEE Act, would it be a contravention of the Act that could be prosecuted? And would it be SAA as being accountable, or is the acceptance by the Service provider also liable to prosecution (if there is any allowance for prosecution at all)?

Many thanks for your assistance. I await your advice on the above question.

Regards

Andrew Keartland

COMMISSION OF INQUIRY INTO STATE CAPTURE | Hillside House, 3rd Floor, 17 Empire Road, Parktown, Johannesburg, 2193 | Gauteng | South Africa |

mobile: +27 (0) 60 769 9048 | email: andrewk@commissionsc.org.za | www.sastatecapture.org.za



From: Francina Notoane <FNotoane@beecommission.gov.za>

Sent: Tuesday, 12 March 2019 15:25

To: Andrew A. Keartland <AndrewK@commissionsc.org.za>

Subject: Response to State Capture

Good day

Please find the response letter and annexures as per request.

On behalf B-BBEE Commissioner Ms. Z. Ntuli

Kind Regards,

Ms. Francina Notoane

Office of The Commissioner

Broad-Based Black Economic Empowerment (B-BBEE) Commission

Telephone: +27 (12) 649 0922

Email: FNotoane@beecommission.gov.za

Website: www.bbbeeecommission.co.za

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Private Bag X84, Pretoria, 0001

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the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

A

Private Bag X84, PRETORIA, 0001, the dti Campus, 77 Meintjies Street, Sunnyside, 0002, Tel: (012) 394 0000
the dti Customer Contact Centre local: 0861 843 384 International: +27 12 394 9500, www.thedti.gov.za

OFFICE OF THE B-BBEE COMMISSIONER

Enquiries: M. Ramare
Email: MRamare@thedti.gov.za
Telephone: +27 (12) 394 1535

Ms Thuli Mpshe
Acting Chief Executive Officer
South African Airways
Private Bag X13
Kempton Park
1627

Dear Ms. Mpshe

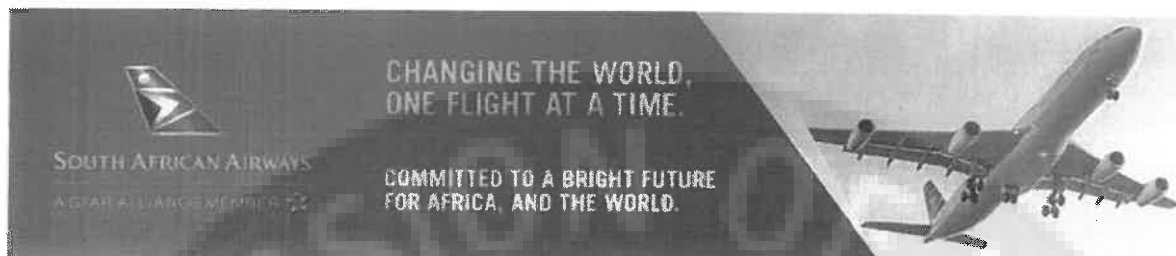
**CONFIRMATION OF THE ALLEGED DEMAND BY SAA FOR BIDVEST TO
GIVE 30% OF THE CONTRACT TO A NOMINATED COMPANY**

1. We refer to the meeting held between ourselves yesterday on 8th September 2015 at your offices in Airways Park, Kempton Park, at 14:00.
2. At this meeting, we requested SAA to confirm if the allegations in the media relating to the demand on Bidvest to give 30% of the contract with SAA to a company to be nominated by SAA are valid. This follows a referral by the Minister of Trade and Industry of a concern received from the Member of Parliament, Adv. Anton Alberts, of the Freedom Front Plus, to the Acting B-BBEE Commissioner in a letter dated 01 September 2015.

"B"

Madidimalo Ramare - FW: SAA Letter on Bidvest Matter

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
To: 'zntuli@thedti.gov.za' <zntuli@thedti.gov.za>
Date: 2015/09/11 2:52 PM
Subject: FW: SAA Letter on Bidvest Matter
Cc: 'FNotoane@thedti.gov.za' <FNotoane@thedti.gov.za>, Masimba Dabwa <Masimb...
Attachments: document2015-09-10-135055_1.pdf



Dear Commissioner

Trust you are well. Following our meeting and the attached correspondence we have apprised the board on this matter.

The board has requested that your office contact them directly in this regard.

The email address is chairperson@flysaa.com

Thank you and kind regards,

Thuli Mpshe | Acting Group CEO

Phone: +2711 978 2825 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block Airways Park, OR Tambo International Airport, Johannesburg, SOUTH AFRICA

From: Francina Notoane [FNotoane@thedti.gov.za]
Sent: 10 September 2015 01:28 PM
To: Yolanda Barron
Subject: Fwd: SAA Letter on Bidvest Matter



Dear Acting CEO,

Kindly find attached signed letter that captured the meeting that was held on 8th September 2015.

Hope you will find this in order

Kind regards,

Francina Notoane

Advance Team Assistant:CCRD DDG's Office

Tel: 012 394 1466

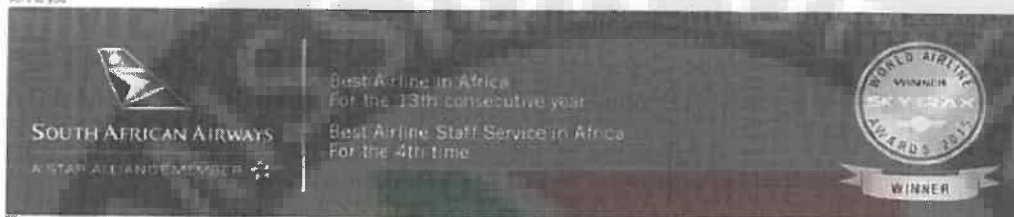
Fax: 012 394 2466

Email: ENotoane@thedti.gov.za

The views and opinions expressed in this e-mail may not necessarily be that of the Department of Trade and Industry. Please refer to the attached link for the DTI's official website: <http://www.dti.gov.za>

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Directing

DD: Trade & Investment, DTI, Mr. J. J. van der Merwe, at janvier@dti.gov.za, E: janvier@dti.gov.za, Tel: 012 394 1466

Team Executive Director

Company: SAA, 1000, 1000, 1000

South African Airways SOC Ltd

Reg. No. 19674014020

A STAR ALLIANCE MEMBER

[Handwritten signature]



the dti
Department of Trade and Industry
REPUBLIC OF SOUTH AFRICA

"C"

Private Bag X84, PRETORIA, 0001; the dti Campus, 77 Meintjies Street, Sunnyside, 0002; Tel: (012) 394 0000
the dti Customer Contact Centre local: 0361 943 304 International: +27 12 394 9500, www.thedti.gov.za

OFFICE OF THE B-BBEE COMMISSIONER

Engelina M. Rautane
Email: EMRautane@bbee.org.za
Telephone: +27 (12) 394 1536

Ms Dudu Myeni
Chairperson of the Board
South African Airways
Private Bag X13
Kempton Park
1627

Dear Ms. Myeni


CONFIRMATION OF THE ALLEGED DEMAND BY SAA FOR BIDVEST TO GIVE 30% OF THE CONTRACT TO A NOMINATED COMPANY

1. We refer to the meeting held between us and the SAA Acting CEO, Ms Thuli Mpshe on 8th September 2015 at your offices in Airways Park, Kempton Park, at 14:00 on the above matter, followed by a letter confirming the discussions which was sent on 9th September 2015 as attached hereto for ease of reference.
2. On Friday, 11 September 2015, we received an email correspondence from Ms Thuli Mpshe indicating that the Board of SAA requests that we correspond directly with the Board.

(Signature of the Commissioner)

(Handwritten signature)

3. We reiterate all the contents of the letter sent to SAA on 9th September 2015, and advise that the 30% set aside initiative that SAA is in the process of implementing, to the extent that it was explained to us in the meeting with SAA, is in our view not in line with the B-BBEE Act and the Codes of Good Practice.
4. As an organ of state and public entity, SAA is required to apply any relevant Code of Good Practice issued in terms of the B-BBEE Act, which refers to the *generic codes* issued by the Minister of Trade and Industry or the *sector code* as approved and gazette by the Minister of Trade and Industry. Any organ of state or public entity may deviate or be exempted through section 9(6) of the B-BBEE Act, as amended, if particular objectively verifiable facts or circumstances applicable necessitate the exemption or deviation.
5. SAA confirmed that the deviation or exemption referred to in paragraph 4 above has not been granted in line with the framework of the B-BBEE Act, as amended, and therefore, it is our view that SAA is not in a position to legally proceed with the implementation of the 30% set aside in the manner proposed.
6. We have also consulted with the Department of Trade and Industry and they have confirmed that based on their record, SAA has not been granted a deviation or an exemption from the Codes of Good Practice within the framework of the B-BBEE Act, as amended.
7. It is our view therefore that even though SAA's conduct may be in good faith, it is not aligned to the B-BBEE Act and the Codes of Good Practice, and therefore SAA should not proceed to implement the 30% set aside until

Three handwritten signatures in black ink, located at the bottom right of the page. The signatures are stylized and appear to be of different individuals.

approval is applied for and obtained from the competent authority, in this case the Minister of Trade and Industry.

8. Having said the above, we request SAA to send us written confirmation that it will not proceed to implement the 30% set aside initiative until it has applied for and received the authorization to do so in terms of the B-BBEE Act, as amended, as agreed in the meeting. We will appreciate if the person duly authorized person at SAA can send us this written confirmation by **Friday, 18 September 2015**
9. Should SAA be of the view that its 30% set aside initiative is in line with the B-BBEE Act, as amended, and the Codes of Good Practice, we will appreciate if SAA can provide this view in writing to us, with reasons, to enable us to determine a way forward on this matter.
10. We remain available to clarify or provide advice on this matter to the board of SAA, where necessary.

We trust that you will find the above in order.

Yours sincerely,



MS ZODWA NTULI
ACTING B-BBEE COMMISSIONER
13/09/15

(Faint watermark text: STATE CAPTURE)



Madidimalo Ramare - FW: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)

From: Yakhe Kwinana <yakhe@kwinana.co.za>
To: "zntuli@thedti.gov.za" <zntuli@thedti.gov.za>
Date: 2015/10/08 3:36 PM
Subject: FW: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)
Cc: "fntoane@thedti.gov.za" <fntoane@thedti.gov.za>, Ruth Kibuuka <RuthKib...>
Attachments: Kenneth Brown.pdf

Dear Ms Ntuli

Co-incidentally your letter contains similar concerns as the National Treasury letter addressed to the Acting CEO. We therefore felt we could copy you on this response.

The Chairperson of SAA Board will make an appointment to meet with you. Be assured that you are one of our most important stakeholders whose support will always be appreciated in an effort to bring about economic transformation to historically disadvantaged youth, women, people with disabilities and military veterans.

The media will always tell its own story to sell the paper. Our Chairperson will tell our story on how we are moving SA forward through SAA transformation and in support for DTI industrialisation and the 9-Point Plan of the SONA 2015.

Best Regards

Yakhe Kwinana
 SAA Chairperson of Audit and Risk Committee

Tel 012 807 0801
 Fax 012 807 0633
 Cell 079 950 0610
 Email yakhe@kwinana.co.za
 Physical Address Alenti Office Park, Block H, 457 Wilherdie Street, The Willows Ext
 82, Pretoria, 0184

From: Yakhe Kwinana
Sent: 08 October 2015 11:40 AM
To: "Vukani Ndaba" <Vukani.Ndaba@treasury.gov.za>
Cc: Thuli Mpshe <ThuliMpshe@flysaa.com>; dudumveni@telkomsa.net; chairperson@flysaa.com; Thozama Skepe <Thozama.Skepe@treasury.gov.za>
Subject: RE: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)

Best Regards

Yakhe Kwinana

Tel 012 807 0801
 Fax 012 807 0633
 Cell 079 950 0610
 Email yakhe@kwinana.co.za
 Physical Address Alenti Office Park, Block H, 457 Wilherdie Street, The Willows Ext
 82, Pretoria, 0184

From: Vukani Ndaba [<mailto:Vukani.Ndaba@treasury.gov.za>]
Sent: 08 October 2015 09:16 AM
To: Yakhe Kwinana <yakhe@kwinana.co.za>
Cc: Thuli Mpshe <ThuliMpshe@flysaa.com>; dudumveni@telkomsa.net; chairperson@flysaa.com; Thozama Skepe

<Thozama.Skepe@treasury.gov.za>

Subject: FW: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)

Dear Ms Kwinana,

We have noted that the attached letter is not sign.

We kindly request the Chairperson to sign it and scan it back to our office.

Thanks

Vukani.

From: Thozama Skepe

Sent: Thursday, October 08, 2015 8:13 AM

To: Vukani Ndaba

Subject: FW: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)

From: Yakhe Kwinana [mailto:yakhe.kwinana.co.za]

Sent: Wednesday, October 07, 2015 4:25 PM

To: Thozama Skepe

Cc: Duduzile Myeni; Thuli Mpshe

Subject: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)

Dear Thozama

Find the SAA Board response for Mr Kenneth Brown.

Best Regards

Yakhe Kwinana

Tel: 012 807 0801

Fax: 012 807 0633

Cell: 079 950 0610

Email: yakhe@kwinana.co.za

Physical Address: Alerifi Office Park, Block H, 452 Witnente Street, The Willows Ext 82, Pretoria, 0184

From: Dudu M [mailto:dudumyeni@telkomsa.net]

Sent: 06 October 2015 08:27 PM

To: Yakhe Kwinana <yakhe@kwinana.co.za>

Cc: 'Ruth Kibuuka' <RuthKibuuka@flysaa.com>

Subject: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)

Dear Ms Kwinana

Kindly send this letter to Mr Brown yourself, on behalf of the Board

Regards.

Ms Dudu Myeni

Chairperson SAA

Tel: +27 11 978 2520

Email: chairperson@flysaa.com



Best Airline in Africa
For the 11th consecutive year



Directors

DC Myeni* (Chairperson), M Kalawe (Chief Executive Officer), WH Meyer (Chief Financial Officer),
Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*
*Non-Executive Director

Acting Company Secretary – Mabane Makhakhe

South African Airways SOC Ltd Reg. No. 1997/022444/30

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http://www.treasury.gov.za/Email_Disclaimer.html



A handwritten signature in black ink, consisting of a stylized 'A' followed by a series of loops and a final flourish.



South African Airways
Room 402, Block A
Airways Park, Jones Road
Kempston Park

Private Bag X13
O.R. Tambo International Airport
Republic of South Africa: 1627

Mr. K Brown
Chief Procurement officer
Department: National Treasury
Private Bag X115
PRETORIA
0001

Per Email: wukani.ndaba@treasury.gov.za

Your Ref: 43/1/2/5/1

Dear Mr. Brown,

SAA PROMOTION OF GOVERNMENT DEVELOPMENTAL PROGRAMME FOR SMALL MEDIUM ENTERPRISES (SMMEs) AND CO-OPERATIVES

1. We refer to the above mentioned subject-matter and your correspondences dated respectively 17 & 28 September 2015, which were addressed to our Acting Chief Executive Officer (CEO) and brought to our attention formerly on 01 October 2015.
2. The Board as the Accounting Authority is cognisant of the fact that your correspondences to the Acting CEO may have not been intended for its reply, albeit that the contents of each of these correspondences related to a resolution that was taken by it at a fully constituted meeting. Furthermore, we submit with respect that the Acting CEO's response to your letter dated 17 September 2015 did not fully respond to the material averments in your correspondence and has also rationed what we would have stated in response thereto.
3. Notwithstanding the above, it is our intention to respond hereto in full to each of your correspondences. Ultimately, it is envisaged that this response will be taken in good faith and entice your office to engage with us directly and at an intergovernmental relations level. We turn at this point to address you first on the contents of each of your correspondence:

Directors:
DC Myeni* (Chairperson), WH Meyer (Chief Financial Officer), Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*

*Non-Executive Director

Company Secretary – Ruth Kibuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

SAA Nominated Black Small Business for Grooming, Toilet and Water Service Contract: Correspondence dated 17 September 2015

4. We are concerned about the subject-matter of your first correspondence. It incorrectly implies that we have awarded to a black small business a contract for grooming, toilet and water services. Furthermore, our concern is that the contents of your letter fail to provide more details on this subject-matter and averments made therein. It compels any reader of the same to make the following incorrect assumptions:
 - 4.1. Bidvest has been awarded by SAA the Grooming, Toilet and Water Services Contract; and
 - 4.2. Bidvest is requested to allocate 30% of the contract awarded to 'a nominated black small business'.
5. We appreciate that these assumptions could have been corrected, had the Acting CEO took your offer to further clarify statements made in your initial correspondence. Later in paragraph 14 of this correspondence, we take this opportunity of seeking clarity from your office. In particular, your office ought to have explained first the foundation of its claim and/or how it came to 'note that South African Airways requested Bidvest to allocate 30% of the above contract to a nominated black empowered company'.

SAA Board Response

6. It is important to provide a brief material background relating to the contract described in your letter. The **contract with BidAir/Bidvest had expired** and in the absence of an approved contract in place, the services are currently being rendered on a month-to-month basis until a public procurement process for the appointment of a new service provider is finalised. An advertisement should be out in a few days, from 06 October 2016.
7. The negotiations with and request made to BidAir which we record that they have to date not accepted it; pertained to the month-to-month arrangement described above and was aimed at promoting the government developmental program for small medium enterprises and co-operatives of youth and military veterans.



8. The ultimate objective of the request was to ensure fairness, equity, transparency and open competition to all small medium enterprises, which will not necessarily participate in the provision of grooming, toilet and water services if the contract is extended or awarded to BidAir only.
9. In respect of the enquiry pertaining to the policy we used to implement our transformation strategy, we can confirm that a draft transformation policy which we have endorsed is aligned to the government policy to support the development of SMMEs, Youth, Women and cooperatives. Our understanding of the foundation, scope and implementation of this government policy is as follows:
- 9.1. SAA as an organ of state is expected to contract and procure goods and services in accordance with a system that is fair, equitable, transparent, competitive and cost-effective. It is in this spirit that in resolving to incorporate SMMEs and Co-operatives of youth and military veterans in SAA's contracts for goods and services, the Board considered that it would be unfair, inequitable, opaque, anti-competitive and cost ineffective to perpetuate the dominance of a single major company like BidAir in the provision of grooming, toilet and water services. Any continuation with BidAir or any other company that has continuously provided certain services and goods to SAA would entrench an already dominant supplier in this segment of the market, with the result of unfairly increasing the entry barriers for SMMEs into this market segment.
- 9.2. The setting-aside of 30% of appropriate categories of State procurement for purchasing from SMMEs, co-operatives as well as township and rural enterprises is government policy that is aligned to section 217(2) of the Constitution (Act 108 of 1996) and restated more recently in the *Nine-point Plan* announced during the February 2015 State of the Nation Address (SONA).
- 9.3. The plan described in 9.2 above is a government policy that has also been endorsed by Cabinet Lekgotla and Economic Cluster tasked with the monitoring of its implementation. It contains 'unlocking the potential of SMME, co-operatives as well as township and rural enterprises' as one of its nine-point plan. It is accordingly our understanding that as we are part of government, we are



expected to implement the 30% set-aside policy to support SMMEs and co-operatives of youth and military veterans.

10. What may be still left hereto as explanation and response to your first correspondence, are the particulars of how will SAA allocate the 30% of its contracts for goods and services to the SMMEs and Co-operatives in a fair and transparent manner. The attached draft transformation policy provides the methodology and/or structure to be used by SAA in giving effect to this transformation policy of government.
11. We also do note the ostensive representation made in your letter that the 30% is to be implemented in terms of a policy that is aligned to the existing procurement legislation. In addition to our submissions in para 8 above, it is our view and knowledge that it is government policy to implement the 30% set-aside and there is currently no specific procurement legislative provision that is prohibiting the implementation of this policy. We submit with respect that the test for implementation of the 30% set-aside is fairness, equity, transparency, cost-efficiency and competitiveness. Once this test has been met, we submit that there can be no argument of illegality or transgression of procurement legal framework in as far as the implementation of the 30% set aside is concerned.

**SAA Nominated Black Small Business for Grooming, Toilet and Water Service
Contract: Correspondence dated 28 September 2015**

12. It is our understanding that the response of the Acting CEO did not articulate the form and/or legal or policy framework which the Board based its resolution to set-aside the 30% of SAA's procurement of goods and services. In vis-à-vis we are unclear about the suggestion in your letter that you were preview to a form to set aside the 30% that 'is not supported by any procurement legal framework'. In paragraph 8 hereto, we have articulated what we understand as the foundation, policy and legal framework for implementation of the 30% set-aside and have also annexed hereto a draft transformation policy that outlines the form of implementation.
13. We are grateful to receive your commendation of our efforts to promote government transformation goals. However, we are concerned by what appears to be a directive from your office and its potential implications for our procurement transformation

plans. Particularly, we are confused and concerned by the following directives or statements made in your letter:

- 13.1. Board must not operate outside the procurement legal framework.
- 13.2. The current form of 30% set aside is not supported by any procurement legal framework and must be stopped with immediate effect [our emphasis].
- 13.3. Board must not take procurement decisions that bring the name of SAA and National Treasury into disrepute.

SAA Board Response

- 14. Without the intent of being confrontational, we consider it important to respond to your statements outlined under paragraph 12 above. However the formulation of a full response to these issues has been made difficult by the lack of the following information from your office:
 - 14.1. Explanation and/or full details of precisely how the Board has operated outside the procurement legal framework in implementing a government transformation policy of setting aside 30% of procurement to unlock the potential of SMMEs, co-operatives as well as township and rural enterprises?
 - 14.2. What is the current form of 30% set-aside that is being or has been implemented by the Board and which is not supported by any procurement legal framework? Conversely if not further, what would be the compliant form of setting aside the 30% described hereto?
 - 14.3. Which procurement decisions of the Board have brought the name of SAA and National Treasury into disrepute?
- 15. It is our respectful view that it is premature and unreasonable at this stage, to direct the Board through the Acting CEO to stop with immediate effect the implementation of its resolution to set aside 30% of SAA procurement for SMME, co-operatives as well as township and rural enterprises. We submit with respect that such a directive ought to be made after your office has fully engaged with the Board and understood the

foundation of the resolution taken. Your concluding sentence in your last letter, wherein you seek an update on the development around the 30% set aside of key procurement transactions, supports our submissions and suggestions in this regard. Particularly, it supports our submission that the directive was made prematurely and without the full background information of the Board' resolution.

16. Accordingly, we request that you consider in good faith and at an intergovernmental relations level our submissions, suggestions and requests made herein above. Where appropriate, provide guidance on the implementation of this government transformation policy of setting aside 30% of procurement of goods and services to SMMEs, co-operatives, township and rural enterprises.

We trust you will find the above in order and looking forward to hearing from you.

Yours sincerely



Ms Y Kwinana

SAA Board Member & Chair of Audit & Risk

Date: 7 October 2015

Madidimalo Ramare - Re: FW: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2) "E"

From: Zodwa Ntuli
To: Yakhe Kwinana
Date: 2015/10/08 5:31 PM
Subject: Re: FW: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)
Cc: Francina Notoane; Madidimalo Ramare; Ruth Kibuuka; Thuli Mpshe; dudu...

Dear Ms Kwinana

Thank you very much for your email.

Kindly note that as our involvement on this matter is in response to a complaint by an external party, we will appreciate a formal response from SAA to enable us to apply our mind, conclude and respond to the complainant. While we note the attached letter from SAA to National Treasury, we unfortunately cannot consider it for purposes of finalising this matter on our part.

As indicated in our letter to the chairperson, we are available to meet on this matter. We therefore will appreciate if the meeting can be scheduled for next week, if practically possible. My office will follow up with the company secretary for arrangements to have the meeting.

Thank you again for the cooperation, and we look forward to the meeting.

Kind regards,

ZODWA NTULI
 ACTING COMMISSIONER
 B-BBEE COMMISSION

>>> Yakhe Kwinana <yakhe@kwinana.co.za> 10/8/2015 3:31 PM >>>
 Dear Ms Ntuli

Co-incidentally your letter contains similar concerns as the National Treasury letter addressed to the Acting CEO. We therefore felt we could copy you on this response.

The Chairperson of SAA Board will make an appointment to meet with you. Be assured that you are one of our most important stakeholders whose support will always be appreciated in an effort to bring about economic transformation to historically disadvantaged youth, women, people with disabilities and military veterans.

The media will always tell its own story to sell the paper. Our Chairperson will tell our story on how we are moving SA forward through SAA transformation and in support for DTI industrialisation and the 9-Point Plan of the SONA 2015.

Best Regards

Yakhe Kwinana
 SAA Chairperson of Audit and Risk Committee.

Tel 012 807 0801

Fax 012 807 0633

Cell 079 950 0610

Email yakhe@kwinana.co.za

Physical Address: Aleric Office Park, Block H, 457 Witmerito Street, The Willows Ext 82,

Pretoria, 0184

From: Yakhe Kwinana
Sent: 08 October 2015 11:40 AM



To: 'Vukani Ndaba' <Vukani.Ndaba@treasury.gov.za>
 Ce: Thuli Mpshe <ThuliMpshe@flysaa.com>; dudumyeni@telkomsa.net; chairperson@flysaa.com; Thozama Skepe
 <Thozama.Skepe@treasury.gov.za>
 Subject: RE: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)

Best Regards

Yakhe Kwinana

Tel 012 807 0801
 Fax 012 807 0633
 Cell 079 950 0610
 Email yakhe@kwinana.co.za
 Physical Address Aletti Office Park, Block H, 457 Witherite Street, The Willows Ext 82,
 Pretoria, 0184

From: Vukani Ndaba [<mailto:Vukani.Ndaba@treasury.gov.za>]
 Sent: 08 October 2015 09:16 AM
 To: Yakhe Kwinana <yakhe@kwinana.co.za>
 Cc: Thuli Mpshe <ThuliMpshe@flysaa.com>; dudumyeni@telkomsa.net; chairperson@flysaa.com; Thozama Skepe
 <Thozama.Skepe@treasury.gov.za>
 Subject: FW: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)

Dear Ms Kwinana,

We have noted that the attached letter is not sign.

We kindly request the Chairperson to sign it and scan it back to our office.

Thanks
 Vukani

From: Thozama Skepe
 Sent: Thursday, October 08, 2015 8:13 AM
 To: Vukani Ndaba
 Subject: FW: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)

From: Yakhe Kwinana [<mailto:yakhe@kwinana.co.za>]
 Sent: Wednesday, October 07, 2015 4:25 PM
 To: Thozama Skepe
 Cc: Duduzile Myeni; Thuli Mpshe
 Subject: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)


Dear Thozama

Find the SAA Board response for Mr Kenneth Brown.

Best Regards

Yakhe Kwinana

Tel 012 807 0801
 Fax 012 807 0633
 Cell 079 950 0610
 Email yakhe@kwinana.co.za
 Physical Address Aletti Office Park, Block H, 457 Witherite Street, The Willows Ext 82,
 Pretoria, 0184



From: Dudu M [mailto:dudumyeni@askomstnet]
Sent: 06 October 2015 08:27 PM
To: 'Yakhe Kwinana' <yakhe@kwinana.co.za>
Cc: 'Ruth Kibuuka' <RuthKibuuka@flysaa.com>
Subject: SAA BOARD RESPONSE LETTER TO TREASURY CORRESPONDENCES 06 OCT (2)

Dear Ms Kwinana
 Kindly send this letter to Mr Brown yourself, on behalf of the Board
 Regards

Ms Dudu Myeni
 Chairperson SAA
 Tel: +27 11 978 2529
 Email: chairperson@flysaa.com



Best Airline in Africa



Directors

DC Myeni* (Chairperson), M Kalawe (Chief Executive Officer), WH Meyer (Chief Financial Officer),
 Y Kwinana*, JE Tambi* (Sierra Leonean), AD Dixon*
 *Non-Executive Director

Acting Company Secretary – Mabane Makhakhe

South African Airways SOC Ltd Reg. No: 1997/022444/30

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the dti Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng, 0002
Tel: +27 (12) 394 1535 Fax: +27 (12) 394 2535
Private Bag X84, Pretoria, Gauteng, 0001

Email: RamareM@bceecommision.gov.za



BCEEC
COMMISSION

Advocate Anton Alberts

Freedom Flight Plus

P.O. Box 6530

Highveld

180

South African Airways 30% Demand on Bidvest

Dear Advocate Alberts

SOUTH AFRICAN AIRWAYS 30% DEMAND ON BIDVEST

1. The Broad-Based Black Economic Empowerment Commission (B-BBEE Commission) is established to section 13B of the Broad-Based Black Economic Empowerment Act (Act 53 of 2003 (as amended by Act 48 of 2013) (B-BBEE Act)) as an entity within administration of the Department of Trade and Industry (the dti) to oversee, supervise and promote adherence to the B-BBEE Act in the interest of public, including to receive complaints amongst its functions under section 13F of the B-BBEE Act.
2. We refer to your complaint addressed to the Minister of Trade and Industry, which was referred to us regarding the alleged demand of 30% by South African Airways from Bidvest. In assessing the complaint, we also had several interactions with South African Airways to determine if the alleged practice exists and if so, whether it appears to violate the B-BBEE Act. We wish to advise that based on the information gathered during this process, there appears to be no practice that has been implemented yet in violation of the B-BBEE Act.
3. We have advised South African Airways fully on the requirements of the B-BBEE Act and that any action or practice that will be implemented in this regard without complying with these requirements will attract an investigation, and may lead to prosecution if it is found to violate the B-BBEE Act. We will continue to monitor the matter to detect non-compliance with the B-BBEE Act, and will use the Commission's powers to initiate an investigation if there appears to be a violation of the B-BBEE Act.

This correspondence is not for public circulation

R
AM

the dti Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng, 0002
 Tel: +27 (12) 394 1535 Fax: +27 (12) 394 2535
 Private Bag X84, Pretoria, Gauteng, 0001
 Email: RamareM@beecommission.gov.za



Broad-Based Black Economic Empowerment Commission

4. On this basis, we wish to respectfully request that you direct your monitoring to detect and apparent violation of the B-BBEE Act in the future. Should you at any time be in the view or in possession of information that any such action of practice is being implemented without complying with the B-BBEE Act requirements, we advise that you inform us immediately and provide us with such relevant information. Further, should you be in possession of information that indicates that a practice in violation of the B-BBEE Act has indeed been implemented contrary to the our original our assessment, we advise that you immediately provide us with such information.

5. We are committed to ensuring that the B-BBEE Act is adhered to, and in this regard, we have also embarked on education and awareness interventions that in our view will strengthen the understanding and knowledge of the requirements of the B-BBEE Act.

6. Should you require clarity or to engage us further on this matter, please do not hesitate to contact the writer on +27 12 394 1535 and ramareM@beecommission.gov.za

We trust that you will find the above in order.

Yours sincerely

Ms. Zodwa Ntuli
 Acting Commissioner
 Broad-Based Black Economic Empowerment Commission
 Date: 03/02/2015

Annexure “TM50”



Masimba Dahwa

From: Masimba Dahwa
Sent: 05 October 2015 07:47 AM
To: Wolf Meyer
Cc: Thuli Mpshe
Subject: Urgent Matter for your Consideration

Dear Sir

Following the meeting between the two Board Members and I on Friday 2 October 2015, I was advised that EFF was coming to Airways Park today Monday 5 October, to demonstrate. I was advised that they will be demonstrating that there is no transformation at SAA because of people like me in senior positions as there is no South Africans holding such positions in Zimbabwe.

Seeing the recent violence against foreign nationals I feel endangered.

Are you aware of these demonstrations by EFF and that they are targeting "people like me, who are none South Africans yet holding senior positions at SAA"? I do not find it safe to proceed to the office this morning against the advice I was given by the two Board Members I met on Friday.

I await your advice and direction.

Regards

Dr. Masimba Phillip Dahwa

Sent from Samsung Mobile

Annexure “TM51”



Masimba Dahwa

From: Wolf Meyer
Sent: 12 October 2015 10:57 PM
To: Masimba Dahwa
Cc: Thuli Mpshe; Corrie Engelbrecht
Subject: FW: Implementation of board resolutions

Dear Masimba

My advice to you is to engage first with Legal and explain that what is required is not in line with the company's SCM Policies and that you seek their advice prior to preparing an award letter. This is to protect yourself from acting outside of your mandate in terms of the policy.

Best regards

Wolf Meyer | CFO

Mobile: +2771-171-2345 | Phone: +2711-978-1515 | E-Mail: WolfMeyer@flysaa.com
 4th floor, block C Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Yakhe Kwinana2
Sent: 12 October 2015 09:48 AM
To: Masimba Dahwa
Cc: Duduzile Myeni; Thuli Mpshe; Wolf Meyer; Ursula Fikelepi; Ruth Kibuuka
Subject: RE: Implementation of board resolutions

Dear Dr Masimba

In the meeting that you are referring to, the Head of Legal stated that she can only prepare the Contract upon receipt of an Award letter from you. You can only issue this letter upon receipt of the Board Resolution.

Ruth can you confirm that you have forwarded the Board Resolutions in respect of SCM to Dr Masimba? If yes, please resend and cc all of us. If not please send and cc all of us.

Best Regards

Yakhe Kwinana

Tel 012 807 0801
 Fax 012 807 0633
 Cell 079 950 0610
 Email yakhe@kwinana.co.za
 Physical Address Alenti Office Park, Block H, 457 Witherite Street, The Willows Ext 82, Pretoria, 0184

From: Masimba Dahwa [mailto:MasimbaDahwa@flysaa.com]
Sent: 12 October 2015 08:29 AM
To: Yakhe Kwinana <yakhe@kwinana.co.za>
Cc: Duduzile Myeni <dudumyeni@telkomsa.net>; Thuli Mpshe <ThuliMpshe@flysaa.com>; Wolf Meyer <WolfMeyer@flysaa.com>; Ursula Fikelepi <UrsulaFikelepi@flysaa.com>
Subject: RE: Implementation of board resolutions

Annexure “TM52”



From: "Musa Zwane" <MusaZwane@flysaa.com>
Date: 17/01/2016 at 19:29:10
To: "Mr Musa Zwane" <zwanemm@mweb.co.za>
Subject: Fwd: revised letter

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: Adv Lester Peter
Date: 17/01/2016 19:06 (GMT+02:00)
To: Musa Zwane
Subject: Fwd: revised letter

Per:
Adv. Lester L Peter

----- Forwarded message -----

From: "Nick Linnell" <nickl@theprojectoffice.com>
Date: Jan 17, 2016 18:10
Subject: revised letter
To: <adv.lester@gmail.com>
Cc:

Hi

Please find an amended letter with the additional allegations listed by you. When asking the Acting CEO to place on a letterhead please ensure that he cuts/paste the content into a new letterhead document.

Kind regards

Nick

Nick Linnell



email: nickl@theprojectoffice.com

cell: 083 488 1000

tel: 021 447 0154

fax: 086 272 1456

www.theprojectoffice.com

The Project Office

Company Registered Office 22 Melkhout Crescent | Platteklouf 3 | 7500

Directors: N H Linnell| M Green

Postal Add PO Box 15813 | Panorama | 7506

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Directors

JB Magwaza* (Chairperson), V Jarana (Group Chief Executive Officer), AJ Bassa*, ML Kingston*¹, HP Maluleka*, TN Mgoduso*, T Mhlari*, AH Moosa*, G Rothschild*, MP Tshisevhe*

*Non-Executive Director
¹ British Citizen

Company Secretary – RN Kibuuka

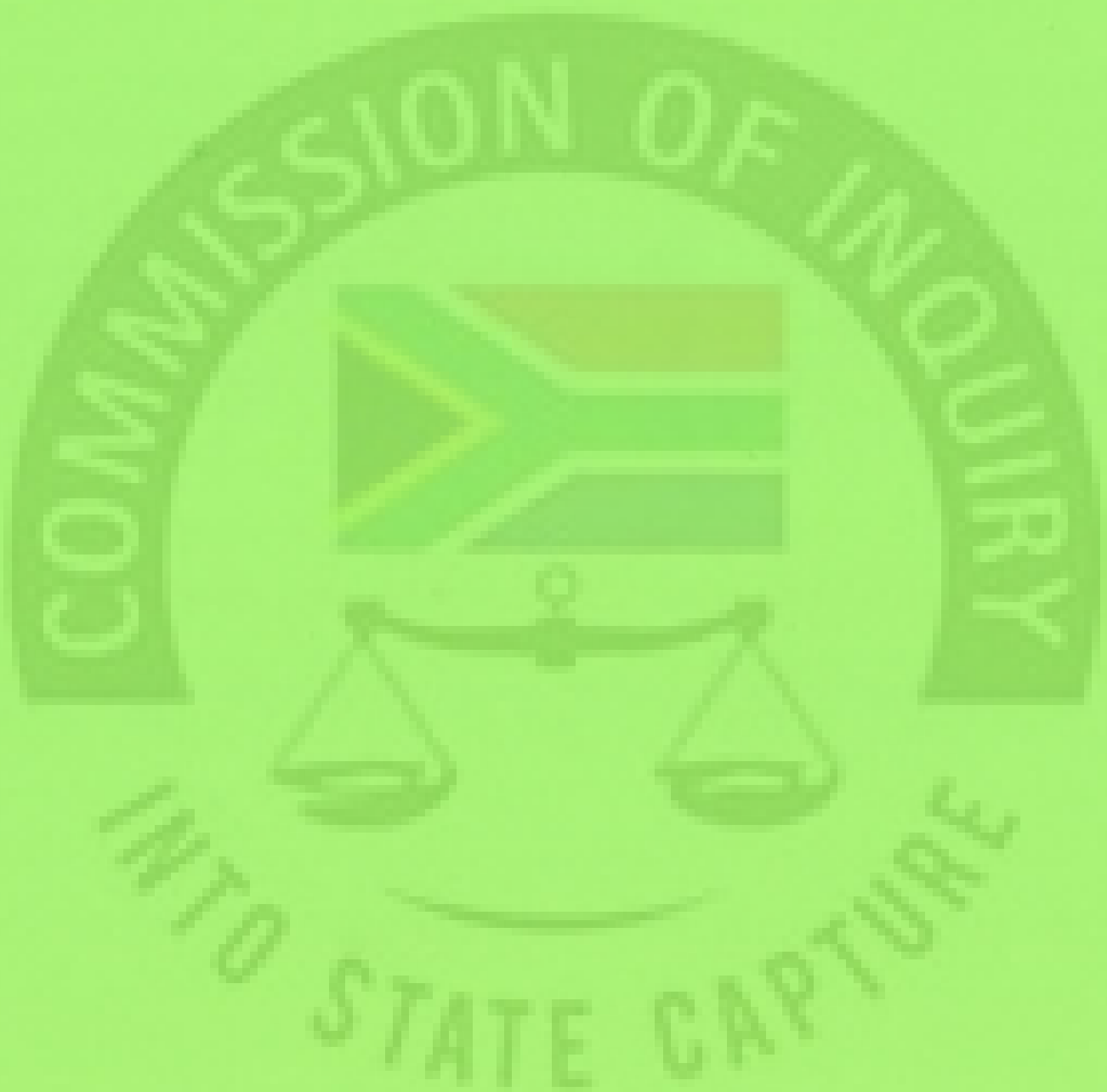
South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

Two handwritten signatures in black ink, one above the other, located in the bottom right corner of the page.

Annexure “TM53”



③

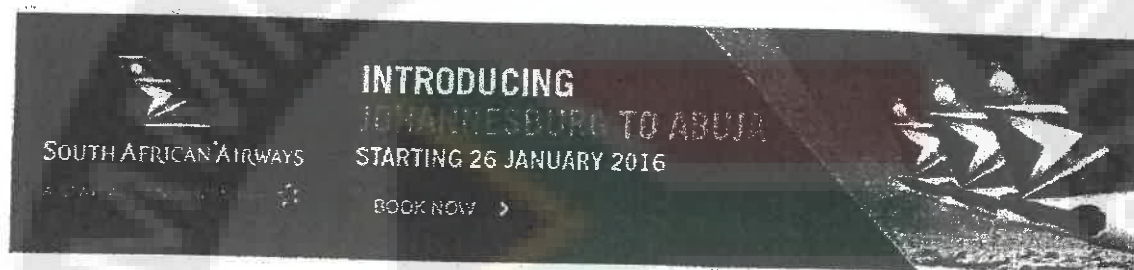
Yolanda Barron

From: Thuli Mpshe <mathulwanempshe@gmail.com>
Sent: 10 February 2016 03:23 PM
To: Yolanda Barron
Subject: Fwd: Media enquiries on allegations of misconduct

Sent from my iPhone

Begin forwarded message:

From: Thuli Mpshe <ThuliMpshe@flysaa.com>
Date: 25 January 2016 at 14:42:08 SAST
To: Thuli Mpshe <Mathulwanempshe@gmail.com>
Subject: FW: Media enquiries on allegations of misconduct



Thuli Mpshe | GMHR

Phone: +2711 978-2525 | E-Mail: ThuliMpshe@flysaa.com
 6th Floor, C Block, Airways Park, OR Tambo International Airport- Johannesburg- SOUTH AFRICA

From: Musa Zwane
Sent: 23 January 2016 08:01 AM
To: Thuli Mpshe
Cc: Ruth Kibuuka
Subject: RE: Media enquiries on allegations of misconduct

Dear Thuli

As you know I was out of the country since Sunday and I only came back this morning. I requested a meeting at two with you in order to clarify the contents of the letter, however I was told that you are not available hence the meeting was then arranged for Tuesday next week. As far as I know, I have no idea who might have communicated on this issue with the press. I spoke to Avril yesterday as well as Tlali who were telling me about the press enquiries. I indicated to them that the letter given to you by Ruth was enquiring about certain allegations and that a meeting was arranged with your office to discuss the context before answers are provided. I am not aware of any suspension or intention to suspend so whoever is spreading such information is damaging the good name of the company and everyone involved in this issue.

Regards,

Musa Zwane | CEO | Technical

A handwritten signature in black ink, appearing to be "Musa Zwane", located at the bottom right of the page.

Phone: +2711-978-3100 | Fax: +2711-978-3641 | E-Mail: MusaZwane@flysaa.com
Room 222, Hangar 8, SAA Technical, OR Tambo International Airport- Johannesburg- South Africa

From: Thuli Mpshe
Sent: 22 January 2016 11:00 AM
To: Musa Zwane
Cc: Ruth Kibuuka
Subject: Media enquiries on allegations of misconduct

Dear Musa

Trust all is well and you had a good trip.

This serves to inform you that I have been approached by the media in respect of the allegations of misconduct.



On Tuesday 19th January 2016 I was called by Craig Mckune from Amabungane reporting for Mail and Guardian asking me to confirm if I have been served with charges/allegations of misconduct. He further mentioned that he has reliable sources within SAA and he was informed that 'they' planned to suspend me and decided against it as it would have created media attention. My response to him was a 'no comment'. He forwarded his business card to what's up in case I change my mind.

On Wednesday 20th January 2016 I was called by Carol Paton from the Business day on my mobile enquiring about the allegations of misconduct. She indicated that this is a matter of public interest and she needs my view. My response was 'no comment'.

On Thursday 21st January 2016 I received a text message (herein attached) from Nicky Smith from the Business day enquiring if I have been suspended. I ignored the text message and later she called on my mobile on the same matter. My standard response was 'No comment'.

Later in the afternoon I received a call on my mobile from Avril Halstead from National Treasury informing me that they have been inundated with media enquiries in respect of my suspension and allegations. I shared with Avril that I received a letter and copy from Ruth detailing allegations of misconduct. I did not share the details or the copy.

I have shared the information with Ruth at all times when I have received the enquiries. The reason I have not shared with the spokesperson and or communications is because I needed to keep the matter within Ruth and myself as the person who you delegated to hand over the letter.



Yolanda Barron

From: Thuli Mpshe <mathulwanempshe@gmail.com>
Sent: 10 February 2016 03:27 PM
To: Yolanda Barron

Morning please note , received yesterday.Thuli. I tried to call now. I'm now told your suspension is imminent/happened. Can you confirm? Are you open to meeting me for coffee? Craig

Sent from my iPhone



[Handwritten signature]
[Handwritten mark]

Yolanda Barron

From: Thuli Mpshe <mathulwanempshe@gmail.com>
Sent: 10 February 2016 03:28 PM
To: Yolanda Barron

Hi. Nicky Smith here from Business Day. I have heard from two people now that SAA tried to suspend you. What has come of the efforts to send you on special leave? And I have a second question too... I am told that a number of senior aviation specialists have left senior positions in the commercial department. Ray Nkwe, Viwe Soga, Paul Pavlides and Louis du Plessis. About half of the top management including Bosc. What is the senior staff vacancy rate at SAA? And how many people have resigned in the past year? Hope you are able to help me. Kind thanks.

Sent from my iPhone



In the bottom right corner, there is a handwritten signature that appears to be 'M' or 'N' with a flourish. Below it, there are some initials, possibly 'L' or 'K', also handwritten.

Yolanda Barron

From: Thuli Mpshe <mathulwanempshe@gmail.com>
Sent: 10 February 2016 03:26 PM
To: Yolanda Barron

Morning Musa, FYI.

Good afternoon Ms Mpshe

Business Day will be writing a story tomorrow about your suspension and would like to include your comment please. What are the reasons for this?

My apologies for disturbing your day.

Kind regards

Linda Ensor

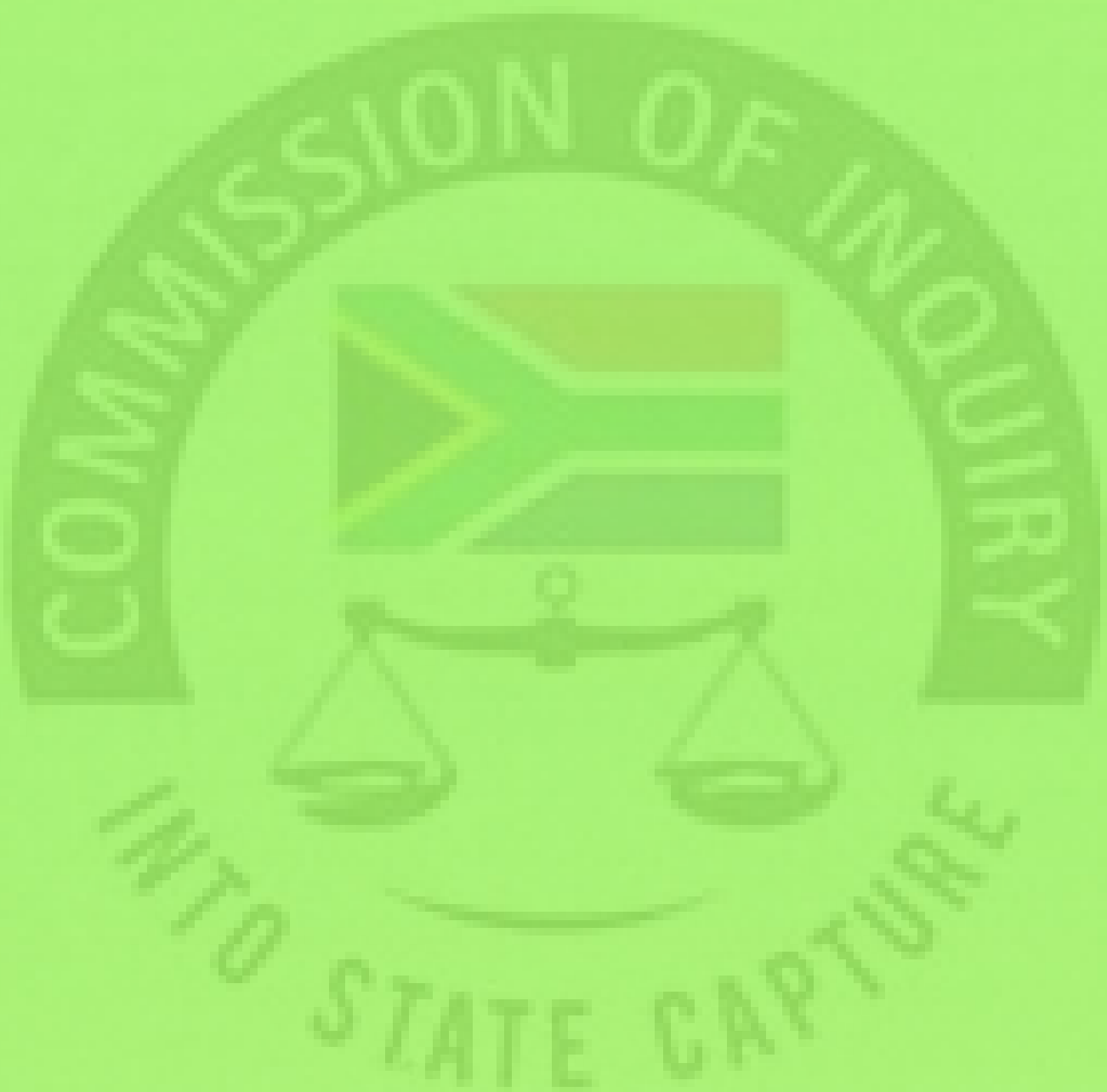
Sent from my iPhone



A handwritten signature in black ink, appearing to be 'M', is located in the bottom right corner of the page.

A second handwritten signature in black ink, appearing to be 'L', is located below the first signature in the bottom right corner.

Annexure “TM54”



Andrew A. Keartland

From: Andrew <anddrewkcommissions@flysaa.com>
Sent: Wednesday, 27 March 2019 10:15
To: Andrew A. Keartland
Subject: FW: FW: Thuli Mpshe
Attachments: FW Privileged and Confidential Ms Mpshe.eml; FW SAATHuli Mpshe.eml; FW Ms T Mpshe South African Airways (SOE) Limited.eml; FW Ms T Mpshe South African Airways (SOE) Limited.eml; no subject.eml; FW Thuli Mpshe.eml

From: "Lester Peter" <LesterPeter@flysaa.com>
Date: 06/04/2016 at 08:55:24
To: "Mbuleli Kolisi" <mbuleli@bmkinc.co.za>
Subject: FW: Thuli Mpshe

Sir,

See attachments hereto.

Regards,

Lester Peter | Global Supply Management

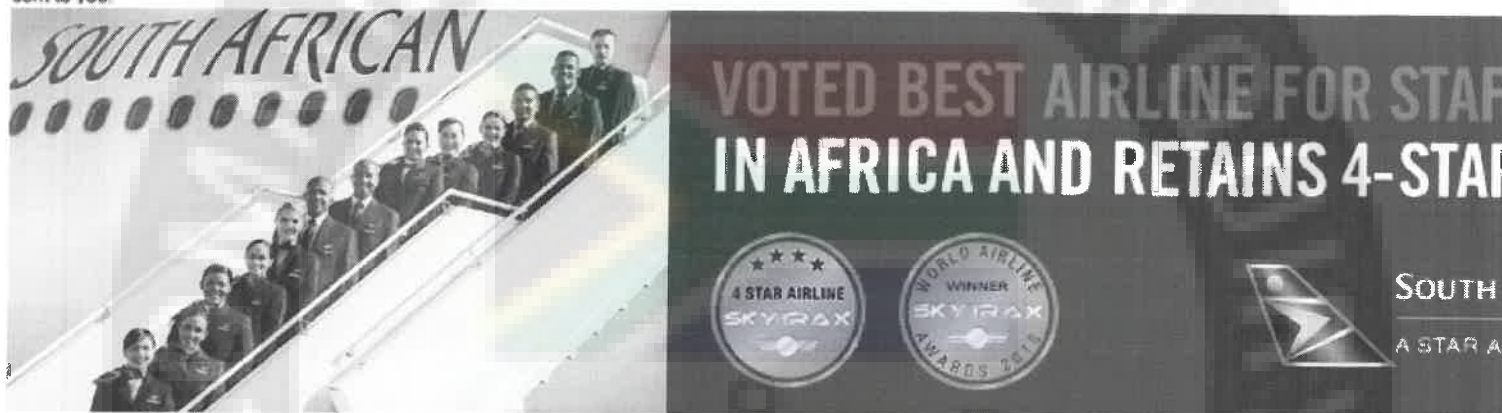
 Phone: +2711-978-5938 |
  E-Mail: LesterPeter@flysaa.com

Room 401, Block A, 4th Floor, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Fundiswa Goduka
Sent: 04 April 2016 01:14 PM
To: Lester Peter
Subject: Thuli Mpshe

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Directors

JE Magwaza* (Chairperson), V Jarana (Group Chief Executive Officer), AJ Bassa*, ML Kingston*, HP Maluleka*, TN Mgoduso*, T Mhlari*, AH Moodsa*, G Rothschild*, MP Tshisevha*

*Non-Executive Director
* British Citizen

Company Secretary – RN Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

Andrew A. Keartland

From: Musa Zwane <MusaZwane@flysaa.com>
Sent: Monday, 04 April 2016 13:01
To: Fundiswa Goduka
Subject: FW: Privileged and Confidential: Ms Mpshe
Attachments: image1aa56c.JPG

Musa Zwane | CEO | Technical

Phone: +2711-978-3100 | Fax: +2711-978-3641 | E-Mail: MusaZwane@flysaa.com
Room 222, Hangar 8, SAA Technical, OR Tambo International Airport- Johannesburg- South Africa

From: Musa Zwane
Sent: 04 April 2016 12:54 PM
To: Thuli Mpshe
Subject: FW: Privileged and Confidential: Ms Mpshe

Musa Zwane | CEO | Technical

Phone: +2711-978-3100 | Fax: +2711-978-3641 | E-Mail: MusaZwane@flysaa.com
Room 222, Hangar 8, SAA Technical, OR Tambo International Airport- Johannesburg- South Africa

From: Brian Patterson [<mailto:bpatterson@ensafrica.com>]
Sent: 07 March 2016 08:37 AM
To: Steven Powell
Cc: Musa Zwane; Muzi Khoza; Victor Mndebele; Anneline Padayachee
Subject: Re: Privileged and Confidential: Ms Mpshe

Hi Steven

Thanks.

Nick asked us to address this after I received a call from Nazeer Cassim SC (Johan Botes counsel) who advises Ms Thuli Mpshe.

We will review and advise you what further info we need shortly.

Best regards

Brian

Sent from my iPad

On 02 Mar 2016, at 3:04 PM, Steven Powell <spowell@ensafrica.com<<mailto:spowell@ensafrica.com>

wrote:

Dear Brian

I received a call from the Acting CEO of SAA, Mr Musa Zwane earlier today who conveyed that the chair had recommended that he enlist my help in attending to the Thuli Mpshe matter as Ms Mpshe has now routed her response to the allegations that SAA asked her to respond to via attorney, Johan Botes of Baker McKenzie.

I conveyed to Mr Zwane that we would need your employment law team to provide assistance and he agreed to that. Can you kindly prepare a response to the letter.

I appreciate that you will no doubt need to have access to the information upon which the letter to Ms Mpshe was based. I also understand that you were pivotal to the discussions with Ms Mpshe regarding the Meyer matter referred to in the letters.

Please liaise with Musa for the required background as necessary. I attach the Acting CEO's letter to Ms Mpshe as well her response thereto which was sent to you by Mr Botes.

Kind regards,
Steven

<mime-attachment>
<mime-attachment>
<mime-attachment>

[cid:image1aa56c.JPG@dc9abdbd.4b954089]

Brian Patterson
director
employment
tel: +27 11 269 7600
cell: +27 82 338 9835
email: bpatterson@ENSafrica.com
offices: ENSafrica locations <<http://www.ensafrica.com/contact>>

Africa's largest law firm

law | tax | forensics | IP

info@ENSafrica.com
ENSafrica.com



level 2 BBBEE rating

Edward Nathan Sonnenbergs Incorporated (registration number 2006/018200/21)

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Handwritten signature and initials in the bottom right corner of the page.

Annexure “TM55”



"TM3"

WEBBER WENTZEL

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The Honourable Minister of Finance
c/o Director General of Finance

E-mail: minrec@treasury.gov.za

E-mail: jungisa.fuzile@treasury.gov.za

Email: Felicas.mogase@treasury.gov.za

cc: Chairperson and Vice Chairpersons of the Board of South African Airways

E-mail: dudumveni@iacobzumafoundation.org.za

E-mail: shatadi.tshesane@ppc.co.za

cc: The acting CEO of South African Airways - Mr. Zwane

E-mail: musazwane@flysaa.com

cc: BMK Attorneys Attn: Mr. Mbuleli Kolisi

Email: mbuleli@bmklnc.co.za

(Page 1 of 3 including this page)

Your reference
Mr M Kolisi/SAA0005/16

Our reference
Mr J Olivier / Mr Hathorn
3012705

Date
30 September 2016

Dear Honourable Mr. Gordhan,

**OUR CLIENT: MS. THULI MPSHE IN RE HER SUSPENSION AS GENERAL MANAGER:
HUMAN RESOURCES BY SOUTH AFRICAN AIRWAYS**

18704033_1

Senior Partners: JC Els Managing Partners: SJ Hutton Partners: RB Africa NG Alp OA Ampofo-Anti RL Appelbaum AE Bennett DHL B. ysen
AR Bowley EG Brandt JL Brink S Browne HS Burger RI Carrim T Cassim RS Coelho KL Collier KM Colman KE Coster K Couzyn CR Davidow
IH Davies PM Days L de Bruyn JHB de Lange DW de Villiers BEC Dickmann MA Diemont DA Dingley G Dryer HJ du Preez CP du Toit
SK Edmundson AE Esterhuizen MJR Evans AA Felekis OA Fichardt JB Forman KL Gauth MN Gibson SJ Gilmour H GJ Gijam CJ Gouws PD Greshy
A Harbey JM Harvey MH Hathorn JS Hanning KP Hillia XNC Hlatshwayo S Hockey CM Huffeld PM Holloway HF Human AV Ismail KA Jarvis ME Jarvis
CH Jonker S Jooste LA Kahn N Kennedy A Keyser PFI Kingston CJ Kok J Lamb L Marais S McCafferty MC McIntosh SJ McKenzie M McLaren
SI Maltzer SM Mchula CS Meyer AJ Mills IA Milner D Mep NP Ngomezulu J Moolman VN Movshovich M Meshali SP Narker RA Nelson BP Ngoepe
A Ngqubo ZH Mtshona MB Ndamonde L Odendaal GJP Olivier N Paige AMT Pardini AS Perry S Patel GP Penfold SE Phajane MA Philippe S Rajah
C Ramjetten GI Rapson NJA Robb DC Rudman H Sador JW Scholtz KE Shepherd OMJ Simaan AJ Simpson H Singh P Singh MP Spalding L Stein
PS Stein MW Straeuli LJ Swaine Z Swanepoel A Thakoi A Toefy RZ Vanda SE von der Heulen A van Niekerk JE Venter D Venter B Verfeld
MG Versfeld TA Versfeld DM Visagie J Watson KL Wilkams K Wilson RH W'son M Yudoken Chief Operating Officer: SA Boyl

Webber Wentzel is associated with ALN

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Page 2

1. We confirm that we act on behalf of Ms. Mpshe who was the acting CEO of South African Airways ("SAA") until November 2015 whereafter she reverted to her former position as General Manager: Human Resources.
2. Our client was suspended on 5 May 2016 and a disciplinary charge sheet was served on her on 5 August 2016. The aforesaid letter of suspension and charge sheet was signed by the acting CEO, Mr. Musa Zwane. Our client denies that she is guilty of any misconduct as contained in the charge sheet or indeed any misconduct that warrants disciplinary action against her.
3. Furthermore, our client believes that the charges against her are motivated by an ulterior motive and that her suspension and the disciplinary charges against her follow on instructions to Mr. Zwane from the former and current Chairperson of the Board, Ms. Dudu Myeni as well as the former Board member and Chairperson of Audit Ms. Yakhe Kwinana.
4. Whilst our client was the acting CEO she refused to sign off on instructions from the aforementioned Board members relating to changes to the instructions to award 30% of the jet-engine jet fuel supply contract and 30% of Swissport on the ground handling contract to parties nominated by the Chairperson of the Board. At the time our client was branded as "uncooperative" by the then Chairperson of the Board of SAA and chairperson of Audit. Our client verily believes that her aforesaid actions led to the investigation against her, the suspension and the ultimate disciplinary charges.
5. It has been brought to our client's attention that in a speech in Parliament on 13 September 2016 regarding the appointment of the new SAA Board which was approved by Cabinet on 31 August 2016, you instructed the Board as follows:

"We have asked the Board to review all the suspensions that are currently in place to see whether they are justified in terms of the Law or whether they have happened on an unjustifiable basis."
6. Our client believes that her suspension is not justified and was driven by an ulterior motive, as set out above. We have been informed through Attorneys representing the SAA, Mr. Mbuleli Kolisi of BMK Attorneys that the acting CEO Mr. Musa Zwane will be preparing a report to the Board relating to our client's suspension and the disciplinary charges. It is also not clear how the new Board will only start their work on 29 September 2016, which will address your instruction relating to the review of the suspensions.




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Page 3

7. Our client believes that the Board should follow a formal process to review such suspensions, particularly our client's suspension. Our client needs to be copied with any report that Management wishes to submit to the Board in respect of her suspension and disciplinary charges and our client would like to have the opportunity to make representations in person to the new Board in respect of her views on her suspension and the fact that it is unjustified and occurred as a result of ulterior motives at play.
8. Our client believes that she can continue to make a substantial contribution to her employer, SAA, particularly in the current difficult circumstances in which it operates. Our client remains a loyal employee of SAA and believes that the current suspension and disciplinary charges formulated against her are spurious and unjustified and that they prejudicial to the corporation in that she is unable to perform her current functions and to act in the best interest of the State Owned Corporation.
9. In the premises and due to the fact that the Honorable Minister has full oversight in terms of Proclamation 88 of 2014, we would be pleased if an instruction could be issued to the Board to conduct its investigation in respect of whether our client's suspension was justified in a formal process and that she be allowed to make representations to the new Board on her views. A copy of this letter will also be forwarded to the new Board care of its Chairperson and Vice Chairperson and to the acting CEO, Mr. Zwane.
10. Please acknowledge receipt hereof.
11. We look forward to hearing from you.

Yours faithfully


WEBBER WENTZEL

Johan Olivier

Partner

Direct tel: +27 11 530 5194

Direct fax: +27 11 530 6194

Email: johan.olivier@webberwentzel.com




Annexure “TM56”



Deputy Chairperson of the Board of SAA

E-mail: shatadi.tshesane@ppc.co.za

Chairperson of the Remuneration Committee of the Board of SAA

E-mail: Tmgoduso@joiose.co.za

(Page 1 of 2 including this page)

Reference: Letter/ Review of Suspensions/SAA

Date
2 November 2016

Dear Mrs Romano and Mrs Mgoduso

SUSPENSION AS GENERAL MANAGER: HUMAN RESOURCES BY SOUTH AFRICAN AIRWAYS

1. I was the acting CEO of South African Airways ("SAA") until November 2015 where after I reverted to my former position as General Manager: Human Resources.
2. I was suspended on 5 May 2016 and a disciplinary charge sheet was served on me on 5 August 2016. The aforesaid letter of suspension and charge sheet was signed by the acting CEO, Mr. Musa Zwane. I deny that I was guilty of any misconduct as contained in the charge sheet or indeed any misconduct that warrants disciplinary action against me.
3. It has been brought to my attention that the Minister of Finance, Mr. Pravin Gordhan made a speech in Parliament on 13 September 2016 regarding the appointment of the new SAA Board which was approved by Cabinet on 31 August 2016. In his speech the Minister discussed, inter alia, the government's expectation of the board, the importance of complying with the procurement guidelines as well as National Treasury's mandate to the board. The Minister of Finance in addition recorded the following:
4. *"We have asked the Board to review all the suspensions that are currently in place to see whether they are justified in terms of the Law or whether they have happened on an unjustifiable basis."*
5. My attorneys on record, Webber Wentzel wrote a letter to SAA's attorneys, BMK informing them of the Minister of Finance's speech and inquiring if a review panel was established. BMK Attorneys informed us that SAA was not aware of any review panel being set up and that the new Board would be briefed about my suspension. Letters attached and marked "TM 1" and "TM2".
6. On 30 September 2016, my attorneys wrote a letter to the Minister of Finance informing him of the aforesaid and requesting him to issue an instruction to the Board of SAA to conduct

a formal review of suspensions. We forwarded this correspondence to the Chairperson of the Board, Deputy Chairperson and the Acting CEO of SAA, however we have not received a response to the letter attached and marked "TM 3".

7. On 17 October 2016 BMK attorneys then advised us that the board has not instructed them as to whether or not it intends to undertake a formal process to review any of the suspensions. They also informed us that the disciplinary hearing is a management issue and that management gave them an instruction to proceed with the disciplinary action against me as per the letter attached and marked "TM4". The disciplinary hearing is scheduled for 16, 17 and 18 November 2016 as per the email attached and marked "TM5". Please advise whether this is a true representation of the SAA Board's position.
8. Kindly advise if the board has decided to undertake a formal process to review the suspensions as per the request from the Minister of Finance, kindly advise if a review panel has been established and if I will have the opportunity to make representations in respect to my suspension. I am firmly of the belief that my suspension and the charges brought against me were based on ulterior motives as set out in the letter to the Minister of Finance, annexure "TM 3" above.
9. Please acknowledge receipt hereof.
10. We look forward to hearing from you.

Yours faithfully

Submitted electronically

Thuli Mpshe

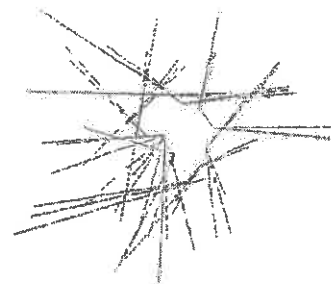


Annexure “TM57”



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The Honourable Minister of Finance
c/o Director General of Finance

E-mail: minreg@treasury.gov.za

E-mail: lungisa.fuzile@treasury.gov.za

Email: Felicas.mogase@treasury.gov.za

90 Rivonia Road, Sandton
Johannesburg, 2196

PO Box 61771, Marshalltown
Johannesburg, 2107, South Africa

Docex 26 Johannesburg

T: +27 11 530 5000

F: +27 11 530 5111

www.webberwentzel.com

cc: Chairman and Vice Chairpersons of the Board of South African Airways

E-mail dudumyeni@iacobzumafoundation.org.za

E-mail: shatadi.tshesane@ppc.co.za

cc: The acting CEO of South African Airways - Mr. Zwane

E-mail musazwane@flysaa.com

cc: BMK Attorneys Attn: Mr. Mbuleli Kolisi

Email mbuleli@bmklnc.co.za

(Page 1 of 2 Including this page)

Your reference

Mr M Kolisi/SAAD005/16

Our reference

Mr J Olivier / Mr Hathorn
3012705

Date

6 December 2016

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Dear Mr. Gordhan,

OUR CLIENT: MS. THULI MPSHE RE HER SUSPENSION AS GENERAL MANAGER HUMAN RESOURCES

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Senior Partners: JC Els Managing Partners: SJ Hutton Partners: RB Africa NG Alp OA Ampofo-Anti RL Appelbaum AE Bennett DHL Booysen AR Bowley EG Brandt JL Brink S Browne MS Burger RI Carim T Cassim RS Coelho KL Collier KM Colman KE Coster K Couzyn CR Davidow JH Davies PM Dey L de Bruyn JHB de Lange OW de Villiers BEC Dickinson MA Diemont DA Dingley G Driver HJ du Preez CP du Toit SK Edmundson AE Esterhuizen MJR Evans AA Felelds GA Fichardt JB Forman KL Gawith MM Gibson SJ Gilmour H Goolam CI Gouws PD Grealy A Harley JM Harvey MH Helthorn JS Henning KR Hills XVC Hlatshwayo S Hockey CM Hofeld PM Holloway HF Human AV Ismail KA Jarvis ME Jarvis CM Jonker S Jooste LA Kahn M Kennedy A Keyser PN Kingston CJ Kok J Lamb L Marais S McCafferty MC McIntosh SJ McKenzie M McLaren SI Meltzer SM Methula CS Meyer AJ Mills JA Milner D Milo NP Mngomezulu J Moolman VM Movshovich M Mtshali SP Naicker RA Nelson BP Ngoepe A Ngubo ZN Ntshona MB Nzimande L Odendaal GJP Olivier N Palge AMT Pardini AS Parry S Patel GR Penfold SE Phajane MA Phillips S Rajah D Ramjetten GI Rapson NJA Robb DC Rudman M Sader JW Scholtz KE Shepherd DMJ Simaan AJ Simpson N Singh P Singh MP Spalding L Stein PS Stein MW Strauill LJ Swaine Z Swanepoel A Thakor A Toefy PZ Vanda SE van der Meulen A van Meerk JE Veeran D Venter B Versfeld HG Versfeld TA Versfeld DM Visagie J Watson KL Williams K Wilson RH Wilson M Yudaken Chief Operating Officer: SA Boyd

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1. We refer to the above matter and our correspondence to yourselves dated 29 September 2016 to which we have not received a response. We act on behalf of Ms. Mpshe who was the acting CEO of South African Airways ("SAA") until November 2015 where after she reverted to her former position as General Manager: Human Resources until she was suspended on 5 May 2016.
2. In our previous correspondence we refer to the speech you made in Parliament on 13 September 2016 regarding the appointment of the new SAA Board which was approved by Cabinet on 31 August 2016, at which time you instructed the Board as follows: "We have asked the Board to review all the suspensions that are currently in place to see whether they are justified in terms of the Law or whether they have happened on an unjustifiable basis." Our client's suspension on 5 May 2016 at all relevant times formed part of the suspensions referred to in your instruction.
3. We have asked SAA's Attorneys, BMK whether they have received an instruction from the new board regarding a formal process to review the suspensions and whether our client will have the opportunity to make representations. SAA's Attorneys informed us that they were not aware of any review of suspensions but that management would brief the new Board about our client's suspension.
4. Our client then wrote a letter to the new Board inquiring whether they have decided to undertake on formal process to review suspensions as per your instruction, however she has not received a response from the board. A copy of our client's letter to the board is attached and marked "Annexure 1".
5. Please advise whether the new board has provided any feedback to your office on the appointment of a review panel. If so, kindly provide us with the contact details of the members. Our client wishes to make personal representation to the review panel in respect of her own suspension as our client is firmly of the belief that her suspension and the charges brought against her are based on ulterior motives on the part of the chairperson of the Board as set out in the letter to you dated 29 September 2016.
6. In the event that a review panel has not been appointed we would be pleased if you could issue an instruction to the new Board to conduct its investigation in respect of whether our client's suspension was justified and to allow our client to make formal representations.



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Alternatively our client wishes to make formal representations to SCOF regarding her suspension and the circumstances leading thereto.

7. We look forward to hearing from you.

8. Please acknowledge receipt hereof.

Yours faithfully

WEBBER WENTZEL

Johan Olivier

Partner

Direct tel: +27 11 530 5194

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Email: johan.olivier@webberwentzel.com


Annexure “TM58”



Andrew A. Keartland

From: Thuli Mpshe <mathulwanempshe@gmail.com>
Sent: Friday, 15 September 2017 11:55
To: Mabana Makhakhe; Siyakhula Vilakazi
Cc: Ruth Kibuuka
Subject: Fwd: Review of Misconduct Disciplinary Hearing
Attachments: Scanned from a Xerox Multifunction Device.pdf; Thuli Mpshe review of suspension representations - Aug 2017 (1).pptx; scan0033.pdf

Dear Mabana

Attached is a response addressed to Acting CEO Mr Musa Zwane on correspondence received and dated 14th September 2017.

Please acknowledge receipt thereof.

Looking forward to a prompt response.

Regards

----- Forwarded message -----

From: **Mabana Makhakhe** <MabanaMakhakhe@flysaa.com>

Date: Thu, Sep 14, 2017 at 10:40 AM

Subject: Review of Misconduct Disciplinary Hearing

To: Thuli Mpshe <mathulwanempshe@gmail.com>

Cc: Siyakhula Vilakazi <SiyakhulaVilakazi@flysaa.com>, Ruth Kibuuka <RuthKibuuka@flysaa.com>



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Dear Sis Thuli,

Please find correspondence regarding the process for the review of the disciplinary case against you attached.

Kind Regards,



Mabana

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South African Airways SOC Ltd Reg. No. 1897/022444/30

A-STAR

1997/022444/30



SOUTH AFRICAN AIRWAYS

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14 September 2017

Ms. Thuli Mpshe

General Manager: Human Resources
South African Airways

Dear Ms. Mpshe

REVIEW OF MISCONDUCT DISCIPLINARY HEARING INSTITUTED AGAINST YOU

1. Kindly take note that after careful consideration of your request, the SAA board has taken the following decision;
 - i. To grant your request for the review of the disciplinary hearing instituted against you.
 - ii. To appoint an independent Labour Specialist, Mr. Raymond Hlongwane from Hlongwane and Associates to conduct the review process.
2. Kindly take further note that you will be contacted by Mr. Hlongwane for an interview with yourself, where you will be required to provide explanation and or clarification pertaining to any concerns you might have on the substantive and or procedural fairness of the disciplinary hearing instituted against you.
3. Mr. Hlongwane will be expected to submit his report to the Ad hoc committee established by the Board to oversee this matter.
4. The Ad hoc committee will then consider the report and make a decision on the matter, which will be communicated to you in writing.
5. Your cooperation during this review process will be highly appreciated.

Directors

DC Myeni* (Chairperson), MGT Ramano* (Deputy Chairperson), MM Zwane (Acting Chief Executive Officer), P Nhantso (Chief Financial Officer), SS Buthelezi*, HP Maluleka*, M Malunga*, TN Mgoduso*, N Moola*, AH Moosa*, JG Sepamla*, BS Tshabalala*, MP Tshisevhe*

*Non-Executive Director

Company Secretary – RN Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

Yours faithfully,



Musa Zwane

Acting Chief Executive Officer (ACEO)

South African Airways

Date: 14/09/2017



MATHULWANE "THULI" MPSHE

**REPRESENTATIONS REGARDING REVIEW OF
SUSPENSION AND DISCIPLINARY PROCESS**

30 August 2017

Handwritten signature and initials in the bottom right corner of the page.

INTRODUCTION

- I wish to make representations to the board to lift my suspension in my capacity as GM: HR and for the disciplinary process which commenced on 5 August 2015 to be halted.
- I verily believe that both the suspension and the disciplinary process are based on ulterior motives and has its basis on my altercations with the chairperson of the Board and another Board member during my stint as the acting CEO from 29 July 2015 to November 2015.
- I will set out herein below reasons why I believe that my suspension and the disciplinary process against me is without basis, unreasonable and driven by ulterior motive.
- I will together with these written representations provide the Board with a bundle of documents in support of my various contentions. I will also be prepared to appear before a subcommittee of the Board to further elaborate on and explain my contentions.

ULTERIOR MOTIVES

- Prior to the suspension I was served with a long list of allegations signed and handed over to me by Mr Zwane, it was at this meeting that Mr Zwane confirmed that all these allegations come from the Board.
- I was the acting CEO of South African Airways ("**SAA**") from 29 July 2015 to until November 2015 where after I reverted to my former position as General Manager: Human Resources.
- During my tenure as the Acting CEO I had various altercations with Ms Dudu Myeni ("**Ms Myeni**") the chairperson of the Board as well as Ms Kwinana a fellow Board member and chairperson of the Audit committee ("**Ms Kwinana**"). These altercations all relate to instances where the Board members tried to interfere with the day to day management and operations of the SAA.
- I will set out herein below a number of examples of such interference and altercations.

ULTERIOR MOTIVES

- For supporting documents please refer to section 1 of the bundle
- On 18 January 2015 I was served with a long list of allegations compiled by SAA and handed over to me by Mr Musa Zwane("Mr Zwane") who was appointed by the Board as the Acting CEO after I was removed from the post. At this meeting Mr Zwane confirmed that all these allegations come from the Board and that he had nothing to do with it.
- I answered the allegations through my attorneys at the time we believed that would be the end of the matter. My attorney at the time was informed that ENS attorneys had advised SAA that there was no basis to proceed against me.
- In April 2016 I became aware of the fact that a firm of attorneys BMK Attorneys have been appointed to investigate me with a view to take disciplinary actions against me. I am of the view that the aforesaid attorneys have been appointed by Ms Myeni and Ms Kwinana without following proper appointment procedure.
- However to my surprise I was suspended on 5 May 2016 pending investigation and disciplinary process. I remain suspended to date.

ULTERIOR MOTIVES

- The suspension was handed over by Ms Kwinana and Mr Zwane which confirmed my view that my suspension was motivated by Ms Kwinana and Ms Myeni.
- I was handed a charge sheet on 5 August 2016 which was signed by Mr Zwane, the charge sheet contained six charges, three of which related to the same set of facts and amounted to compounding of charges. A further charge was later added on 9 November 2016.
- Again Mr Zwane denied formulating or motivating the charges and it was clear that the disciplinary process was driven by BMK Attorneys, acting on behalf of the relevant Board members.
- I appointed Webber Wentzel Attorneys ("WW") to represent me in the disciplinary process. At all relevant times WW was required to deal with BMK Attorneys and not any senior official of SAA. WW also found it difficult to obtain further information, documents or access to relevant witnesses in order for me to defend myself against the charges.
- I still have not relevant documentation that I request and I believe that some of these documents are being purposefully withheld.

ULTERIOR MOTIVES

- When I was finally given access to certain documents as well as witnesses I was able to show that I have a proper defense to each of the charges and that there was no basis to discipline me and the relevant witnesses corroborated my version. Despite this and the fact that I pointed out that I verily believe that the whole process is tainted by ulterior motives, BMK attorneys maintained that this process should continue.
- I set out herein below the facts which I believe demonstrate the ulterior motives. I will also summarise my version and defense in respect of each of the charges and why I believe there is no basis for disciplinary action against me.

ULTERIOR MOTIVES CONTD

- During my tenure as Acting CEO, I was subjected to the following:
 - Pressure from Ms Myeni to change the organizational structure of SAA and to add the position of a Chief Operating Officer (on 18 May 2015 and 23 July 2015). This despite the fact that the relevant structure had previous been reviewed by Labour and Management and approved by the Board. This approved structure was also used for the section 189 of the LRA process which had been embarked upon, as such opposed such proposal.
 - pressure from Ms Myeni to appoint Captain Mpho Mamashela to Chief Operations Officer position (which did not exist as per the point above) without due process. I again opposed such demand;
 - pressure from Ms Myeni to combine the positions of Chief Pilot and HOD: Flight Operations and to appoint Captain Eric Manentsha ("Manenetsha") as the Chief Pilot to this position because he complained to Ms Kwinana that his role as Chief Pilot is ceremonial;
 - Combining the abovementioned positions was not in line with the standard operating procedures, Pilot's manual and not approved by the Civil Aviation Authority. As such I opposed the appointment.

ULTERIOR MOTIVES CONTD

- pressure from Ms Myeni to appoint Kendy Phohleli ("**Mr Phohleli**") first in the Commercial Division and subsequently in the office of the Chairperson, even though Mr Phohleli's contract had ended, after it was rolled over six times. After the last roll over had made it clear that his contract should not be rolled over again. Noting further that there was no position available in Commercial at the time and that he was not suitable and did not qualify for both positions. As such I opposed such demand.
- pressure from Myeni to award 30% of Swissport's share on the ground handling contract to parties nominated by the Chairperson of the Board to a company called Jamicron (Pty)Ltd. This company was not listed on the database of SAA Suppliers and was at the time not registered with CIPRO. I opposed this demand which was against relevant procurement and other SAA procedures and policies.

ULTERIOR MOTIVES CONTD

- pressure from Ms Myeni to award 30% of the "jet-engine fuel" supply contract to a consortium yet to be formed by Ms Myeni, Ms Kwinana and Peter Tshisevhe. This list contained a number of Ms Myeni's personal contacts. This contract was legally awarded to Engen and had been running for approximately two years and could not be changed in this manner. I opposed this demand as it was contrary to SAA policies and procedures.
- Both these instructions were motivated by the Chair Person's transformation agenda. She informed us that the President of SA had mentioned at the State of the nation address in January 2016 that all contracts must have a 30% BBBEE requirement. This was despite the notification from the Commissioner of BBBEE from DTI and Chief Procurement Officer from National Treasury that the action is illegal.

ULTERIOR MOTIVES CONT

- pressure by Ms Kwinana, to sign a tender award letter to Boqwana Burns to do a forensic investigation on Mr Wolf Meyer (CFO) and Mr Nico Bezuidenhout former Acting CEO. I referred the matter to the Chief Audit Executive(CAE) to confirm if Boqwana Burns was listed on the panel of Forensic investigators. He informed me that they were not.
- I then referred the matter to the Chief Procurement officer (CPO) to confirm if the tender process was followed, he informed me that he had no such record of the tender. As a result of the responses I received from CAE and CPO I declined to sign the award letter.
- pressure from Ms Myeni to cancel LSG Sky Chefs' tender award despite the fact that the award was lawful and had followed due process;
- pressure from Ms Myeni to discipline Mr Wolf Meyer, Chief Finance Officer ("Mr Meyer") without just cause. The chairperson wrote to me and informed that I should discipline Mr Meyer based on an investigation report and a legal opinion.

ULTERIOR MOTIVES CONTD

- I requested copies of the investigation report and the legal opinion to enable me to form a sound basis for the disciplinary action the formulation of the related charges. To date I have not received same.
- At the time I was branded as "uncooperative" by Ms Myeni and Ms Kwinana for refusing to succumb to the abovementioned pressures. I believe that the aforesaid actions led to the investigation against me, the suspension and the ultimate disciplinary charges.
- I deny that I am guilty of any misconduct as contained in the charge sheet or any misconduct that warrants disciplinary action against me.
- I believe that I can continue to make a substantial contribution to my employer, SAA, particularly in the current difficult circumstances in which it operates.
- This is based on the track record of my performance and the value I added to the organisation.

ULTERIOR MOTIVES

- I am a loyal employee of SAA and I believe that the current suspension and disciplinary charges formulated against me are spurious and unjustified and that they are prejudicial to the organization in that I am unable to perform my duties and to act in the best interest of the organisation.
- I also believe that the vendetta against has a very negative effect on morale in the SAA as a whole and particularly in the Human Resources department, hampering efficient service delivery.
- I will set out my view on the relevant charges and whether they are of any substance warranting the disciplinary process

CHARGE 1: FAILURE TO FOLLOW PRESCRIBED PROCUREMENT POLICIES AND PROCEDURE IN THE APPOINTMENT OF EXECUTIVE SECURITY OFFICER

- For supporting documents please refer to section 2 of the bundle.
- A meeting was held by the HR (Head of departments) ("HODs") where they expressed concerns for my safety as Acting CEO whilst the section 189 restructuring process was taking place. This process was violently opposed by the trade unions.
- Mr Linga Moonsamy ("Mr Moonsamy") Head: Group Security Services, was called into the meeting and he was informed about the HOD's concerns around my safety.
- Mr Moonsamy's signed statement indicates that he instructed Mr Ezekiel Koalibane ("Mr Koalibane") the Physical Security Specialist to perform a full security risk assessment. According to Mr Koalibane the risk assessment report indicated that "*the Acting CEO was under increasing pressure and worked long hours, resulting in her working until late at night*".
- Mr Koalibane's report recommended that an Executive Protection Officer should be appointed through SAA procurement processes.

CHARGE 1 CONTD

- Mr Moonsamy then initiated the process of appointing an external service provider as none of the SAA drivers could not be appointed because they do not have experience in security and protection services.
- Mr Moonsamy then approached GSS services for a list of registered preferred suppliers.
- Mr Moonsamy's statement provides that clause 11.6 of the Supply chain Management policy states that a minimum of 3 quotes must be obtained before deciding on a vendor or a purchase. This process could be deviated from where it is impractical to follow the standard procurement process for instance in the case of an emergency such as: customer service impacting conditions or jeopardising of health and safety.

CHARGE 1 CONTD

- Mr Moonsamy's statement indicates that the services of Nicolls Steyn and Associates (Pty) Ltd were procured as they are a registered service provider and are on the SAA preferred supplier data base. The services were undertaken as an emergency in line with the SAA policies. The security service procured were for an amount of R38 000 and the services included an Executive Protective officer.
- I was driven from my residence to work in my vehicle and the Services were from and the services lasted for a period 1 to 25 October 2015, this was for less than 1 month. Thereafter the service stopped due to reassessment of the risk.

CHARGE 2 : BREACH OF EMPLOYMENT AGREEMENT

- The reason I did not decline the abovementioned service is because they were recommended to me by the Head of Group Security services, after a risk assessment was conducted by his department and after advise from my family.
- It was not irregular for a Acting CEO to have security services as previous CEOs also had protection services provided to them.
- I deny that I breached my employment contract in any manner.
- I acted in good faith at all relevant times.
- I did not motivate for or demanded this appointment. It was completely in the hands of Mr Moonsamy and his budget was utilised.

CHARGE 3: DISHONEST CONDUCT



- I deny any dishonest conduct relating to the appointment of the security service provider.
- Mr Moonsamy appears as a requestor of the service and motivated for the provision of the service.
- I signed the GSS Security Services request form ("**GSS form**") with the intention of receiving the services and not as an organiser or approver. The GSS form does not provide for signing in receipt of the service.
- Should I have requested the service it would have come from my department's Cost Centre. In this case the budget and expenditure came from GSS Security Services as they were the requestor of the services.
- I believe that charges 2 and 3 amount to compounding and are without substance.

CHARGE 4: IMPROPER ADJUSTMENT OF THE SALARY OF SIMON NGWENYA

- I received a motivation in December 2012 for the adjustment of the salary of Simon Ngwenya ("**Mr Ngwenya**") from Yvonne Mfeka, HOD Employer Relations. Mr Ngwenya worked as a specialist in Employee Relations.
- Mr Ngwenya had been working for SAA since 1994 when he was a cabin crew member. He came up the ranks and was employed as an Employee Relations ("**ER**") Specialist.
- Mr Ngwenya had experience and performed his duties well. He was a critical skill to SAA but he had a salary lag. The adjustment was aimed at eliminating the unfair discrepancy and also retaining Mr Ngwenya's good skills and competence.
- The department had four ER specialists at that time and he was the most experienced with institutional memory and the least paid.
- Mr Ngwenya's salary was R474 510 per annum and it was adjusted to R598 100 which was in line with the Remuneration Bands for 2011/2012.

CHARGE 4 CONT

- An audit was done in December 2014, regarding this adjustment following a whistle blower's report. This audit report, handed to the CEO at the time reflected no irregularities as the adjustment was in line with the Remuneration Philosophy and within my Delegation of Authority.
- it is wholly irregular to now try and charge me in 2016 relating to events from 2012 which I was exonerated in 2014.



CHARGE 5: IRREGULAR INCREASE OF SALARY OF MASIMBA PHILLIP DAHWA ("DR DAHWA")

- Dr Dahwa, Chief Procurement Officer ("CPO") was employed on a fixed term contract as he is a foreign national, the contract was initially from 13 August 2014 to 18 October 2014 and the fixed term contract was extended for another 2 years.
- The reason for the renewal was, to ensure that he would transfer his skills to someone who would take over his position in April 2017, at the end of his contract.
- The motivation for the salary increase was a result of a change in the procurement structure at the time. The legal department was being incorporated into the procurement department.
- The HOD Contracts Manager was moved from the Legal department to Procurement and that resulted in the HOD Contracts Manager reporting to Dr Dahwa.
- Dr Dahwa earned R1 200 000 per annum while the Contracts Manager, a subordinate, earned R1 639 800 per annum.

CHARGE 5 CONTD

- The HOD's Job was rated 830 hay units while Dr Dahwa's Job was rated 1142 hay units.
- The Remuneration Guidelines states that there must be a 15% differential in salary between a manager and their subordinate.
- The recommendation was for Dr Dahwa's salary to be increased from R1 200 000 to R1 600 000 with level 2 benefits, in line with the remuneration guidelines.
- This was still R39 800.00 per annum less than the Contracts Manager.
- Dr Dahwa's salary increase amounted to a 33% increase however it still remained below the 15% differential between manager and subordinate as per the Group Reward Philosophy and the Remuneration Guidelines for management for 2013/14 and 2014/2015. In order to reach this differential a 50% increase would have been necessary.
- Catherine Mofokeng, the Human Resource Business Partner ("HRBP") compiled the motivation and advised that she got assistance from the Remuneration and Benefits specialist Shelley Venter who informed her of 15% differential that was required.

CHARGE 5 CONTD

- The Chief Financial Officer at the time Mr Meyer instructed Ms Mofokeng to motivate for Dr Dahwa's salary increase and he approved the request for the 33% increase.
- The motivation was signed by me in support, in line with my delegation of Authority.

CHARGE 6: IRREGULAR INCREASE OF THE SALARY YVONNE MFEKA

- On 6 December 2012 I requested Ms Yvonne Mkefa ("Ms Mkefa"), Employee Relations Specialist's salary adjustment.
- Ms Mkefa was the most qualified and experienced member of the ER team and she was the Acting HOD: Employee Relations at that time.
- The reason for the increase was because an offer of employment was extended to an external candidate Mr Lehutjo Mello ("Mr Mello") for the Employee Relations Specialist position.
- Mr Mello was going to earn R820 000.00 per annum while Ms Mkefa was earning R736 590.00 per annum. The adjustment was for parity with Mr Mello.
- On 18 December 2012 Mr Mello accepted the employment offer however on 2 January 2013 when he was due to start work, Mr Mello advised SAA that he received a counter offer from his previous employer and would no longer be coming to work for SAA.

CHARGE 6 CONTD

- SAA could not retract Ms Mkefa's salary increase at the time as it would have been tantamount to an unfair labour practice with the risk of the matter being referred to the CCMA.
- An audit was conducted following a whistle-blower report. The audit report makes it clear that the adhoc increase was in line with the Remuneration Philosophy and my Delegation of Authority and it was approved by the CEO.
- I submit that there is no basis for a disciplinary charge based on these event from 2012 which were dealt with in a Audit report to the CEO in 2014.

CHARGE 7: GROSS MISCONDUCT CHARGE ADDED IN NOVEMBER 2016 RELATING TO APPOINTMENT OF MS HAMID IN THE COMMERCIAL DIVISION

- During 2014 SAA's revenues were in dire straits for a range of reasons and various measures were being implemented by the then CEO, CFO and head of Commercial. One such measure included the recruitment of an appropriately qualified and experienced Head of Revenue Planning and Optimization.
- The recruitment process was initiated by Sylvian Bosc ("Mr Bosc") who was the Chief Commercial Officer at the time.
- He was assisted by Thembi Mgomezulu ("Ms Mgomezulu") in her capacity as HOD: Human Resource Business Partner ("HRBP").
- Ms Hassimah Hamid ("Ms Hamid") and Martin Aerberli ("Mr Aeberli") were identified during a recruitment process as persons with the necessary qualification and experience. They are both foreign internationals and were interviewed by Talent Africa a recruitment agency, on 2 April 2014 along with other candidates.

CHARGE 7 CONT

- The interview panel consisted of Mr Phohleli the Acting General manager Commercial, Ms Mgonezulu, Siphso Chisi (HRBP Commercial Human Resources), Mr Bosc and Auguste Coetzee the Talent Africa representative.
- Following the interview Mr Aerberli in accordance with SAA recruitment policies and procedures was offered a position of Head Planning and Revenue Optimization. Mr Aeberli accepted the appointment subject to obtaining the necessary work permit.
- On 2 March 2015 Mr Aeberli resigned from SAA , as a result of the delay in the granting of his work permit by the South African Home Affairs department.

CHARGE 7 CONTD

- Upon Mr Aeberli's resignation Mr Bosc restarted the recruitment process.
- Mr Bosc met with Ms Hamid in Dubai while he was on duty travel and they discussed whether she still had an interest in the vacant position as one of the candidates who were interviewed for the Head of Revenue position.
- Mr Bosc asked Ms Hamid to be interviewed again in South Africa by the SAA HODs in Commercial and Ms Mgommezulu. Such interview was held.
- All the HODs agreed that she was the best candidate with the required skill and competence for the position.
- Ms Hamid is a Malaysian citizen and she worked in Dubai at that time. She therefore required a work permit in order for her to provide services to SAA in South Africa.
- I requested for guidance from Pienie Jacobs ("**Ms Jacobs**") as International Human Resources Specialist on the types of work permits that could be applied for in light of Mrs Hamid's appointment, taking into account the delay that Mr Aeberli experienced with the work permit.

CHARGE 7 CONTD

- Ms Jacobs had experience with expatriates and she recommended that the best option was to appoint Ms Hamid on an intra-company transfer work permit, while she was based in Malaysia, her home country, which meant that she would need to commute between South Africa and Malaysia. After 6 months she would then be transferred to work in South Africa in accordance with the intra-company transfer work permit.
- Whilst waiting for the finalisation of Ms Hamid's work permit, she was given a 12 month Consultancy Agreement to enable her to travel to and work in South Africa on a intermittent basis.
- Ms Jacobs further recommended that the remuneration should be paid using the General Sales Agent office in Malaysia via the SAA office in Hong Kong. SAA does not fly directly to Malaysia however it operates there through a General Sales Agent.
- Mrs Jacobs arranged with the General Sales Agent and Ms Hamid started working for SAA.

CHARGE 7 CONT

- I deny that the relevant SAA policies and procedures had not been followed and that a position did not exist in the SAA approved structure in order for Ms Hamid to be appointed.



CHARGE 8: CONTRAVENTION OF SECTION 51(1)(E) OF THE PFMA

- The Delegation of Authority allows me to sign all letters of appointment for managers below level 1 (Levels 2, Level 3 and Specialists). It is through this delegation that I signed Mrs Hamid's letter of appointment.
- The remuneration of all employees is done through the Remuneration Department and for international employees, the International Remuneration and Benefits Department handles it and Ms Jacobs is responsible for it.
- Mrs Hamid reported to the Commercial department, which determined and managed her responsibilities and approved her travel.
- Her salary was paid upon receipt of proof of the work done which was predetermined in advance by her line manager and her salary was paid through Commercial department's General Sales Agent .
- This was done as a interim arrangement whilst waiting for her work permit to be approved and to avoid losing her skills in the same manner as in thr case of Mr Aerberli.

CHARGE 8 CONT

- I deny that the financial management and internal control systems had been undermined or that the SAA suffered fruitless and wasteful expenditure.
- Ms Hamid had performed work for the commercial department for which she was paid and she was due to be appointed to the Head of Revenue position, a crucial position in the commercial department.
- She was also due to transfer skills to existing SAA personnel based on her substantial skills and experience.
- I am of the view that I had been prematurely charged without a good reason in respect of this matter. I had not been involved in any investigation as conducted by internal audit and I have also been informed that relevant documents held by Ms Jacobs had gone missing. This matter should be thoroughly investigated and I tender my full participation in such investigation.

CONCLUDING STATEMENTS

- I believe based on what is set out above that my suspension and the disciplinary charges brought against me are motivated by ulterior motives and should therefore be set aside.
- Other senior managers and executives who were also viewed as being uncooperative with requests and demands from the Board which were not in line with the companies policies, procedures and processes were also suspended and handed disciplinary charges. Examples are Mr Bosc who was found not guilty of the charges brought against him but was not allowed to return to work by the Board and Mr Lourens Erasmus and Ms Thembi Mngomezulu whose suspensions have since been withdrawn. Ms Cynthia Stimpel Group Treasurer who accepted a negotiated settlement after months on suspension, and Dr Masimba Dahwa CPO who was dismissed through a "kangaroo court".
- It is important to note that BMK was the assigned attorney for all the above cases.

CONCLUDING STATEMENTS

- BMK attorneys agreed to provide us with outstanding relevant documents that we requested but to date we have not received them.
- BMK further agreed to revert to us regarding SAA's views on the matter taking into account the representations, documentation and the evidence provided by the companies' witnesses.
- To date, we have not heard from BMK attorneys despite our cooperation and patience.
- I have also brought my concerns and views to the attention to the of Deputy chairperson of the Board and Deputy chairperson of Remco on the 2nd November 2016 and only received acknowledgment of such on the 10th February 2017. WW also wrote to the honourable Minister of Finance and to the Director General of Finance on 9 December 2016 without a response forthcoming.
- This suspension has prevented me from making a valuable contribution to the SAA at the time when the organisation is in dire straits.
- This suspension has caused me and my family a lot of hardship, pain, reputational damage and a substantial amount of attorney's fees.

CONCLUDING STATEMENTS

- My suspension has been dragging on for over 15 months and with no indication when my disciplinary will start. My representative from WW have brought to the attention of BMK attorneys my argument and submissions as set out above but without an appropriate response from any senior official of SAA.
- it is clear from the above that this process has been motivated by ulterior motives and that there is no basis for the suspension or these charges.
- I therefore request that the suspension be lifted and the charges be retracted.

THANK YOU FOR AFFORDING ME THIS OPPORTUNITY

- Contact details
- THULI MPSHE

073 611 7009

mathulwanempshe@gmail.com



Dear Mr. Zwane

This serves to acknowledge receipt of the attached letter dated 14th September 2017.

I need clarity in respect of the following matters:

* Attached letter refers to 'Review of Misconduct Disciplinary Hearing whereas the previous one referred to " Review of the pre-cautionary suspension'.

* I have submitted a representation with supporting documentation for a review of the Pre-cautionary suspension on the 30th August 2017.

* Please advise the outcome of the review of the precautionary suspension as it is not mentioned in the attached letter.

* Will Mr Kolisi of BMK who handled this matter on behalf of SAA be interviewed?

* Will my legal representative Mr Johan Olivier of Weber Wentzel be interviewed?

* Will my legal representative Mr Johan Olivier be allowed to be present when I am interviewed?

Looking forward to your prompt response.

Yours sincerely



THULI MPSHE

